Proceedings of the Council

OF THE

LIEUTENANT-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

Index to Vol. XX.

JANUARY TO DECEMBER 1888.

LIBRARY OF THE

Published by Authority of the Council.

Calcutta:
PRINTED AT THE BENGAL SECRETARIAT PRESS.

1889.

INDEX TO THE PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS

FOR THE YEAR 1888.

A.

PAGE.

ABDUL JUBBAR. See *Jubbar.*

ACT IX (B.C.) OF 1871. AMENDMENT OF—
See *Howrah Bridge Act Amendment Bill.*

„ IV (B.C.) OF 1876. AMENDMENT OF—
See *Calcutta Municipal Consolidation Bill.*

„ III (B.C.) OF 1884. AMENDMENT OF—
See *Mofussil Municipalities Amendment Bill.*

ADJOURNMENTS OF COUNCIL. See *Council.*

ADVOCATE-GENERAL OF BENGAL, (HON'BLE G. C. PAUL)—
Calcutta Municipal Consolidation Bill ... 62, 90, 94, 121, 127, 227, 248, 316, 322, 326, 381, 384, 385, 390, 394, 397, 400, 402, 405, 420, 425, 436, 442.
Mofussil Municipalities Act Amendment Bill 413

ALLEN. HON'BLE T. T.—
Calcutta Municipal Consolidation Bill ... 164, 188, 190, 231, 246, 284, 303, 333, 381, 390, 402, 434, 434.

ALLEN. HON'BLE T. T., appointed to Select Committee on—
Mofussil Municipalities Act Amendment Bill 161

B.

BANERJEE. HON'BLE DR. GOOROO DAS—
Calcutta Municipal Consolidation Bill ... 11, 20, 21, 46, 53, 64, 69, 75, 91, 92, 96, 97, 98, 107, 108, 123, 126, 136, 143, 152, 162, 181, 192, 193, 197, 219, 229, 250, 260, 285, 288, 289, 294, 297, 299, 320, 322, 323, 325, 329, 331, 336, 338, 368, 370, 371, 376, 382, 384, 388, 400, 406, 407, 420, 425, 436, 447.
Mofussil Municipalities Act Amendment Bill 412

INDEX.

PAGE.

BANERJEE, Hon'ble Dr. Gooroo Das, appointed to Select Committees on—
Calcutta Municipal Consolidation Bill 8
Mofussil Municipalities Act Amendment Bill 161

BAYLEY, Hon'ble Sir Steuart Colvin. See *Lieutenant-Governor of Bengal.*

Bengal Act III of 1884. See *Mofussil Municipalities Act Amendment Bill.*

C.

CALCUTTA MUNICIPAL CONSOLIDATION BILL.
Further Preliminary Report of Select Committee presented 1
" " " considered 11
Settlement of clauses 11, 34, 70, 97
Final report of Select Committee presented 129
" " considered 135
Settlement of clauses 135, 162, 201, 237, 272, 305, 344, 375, 418
Consideration of clauses postponed 158, 199, 236, 303, 339, 374, 410
Amendments proposed and adopted ... ... 65, 69, 70, 71, 92, 95, 96, 98, 101, 102, 103, 104, 108, 125, 126-27, 128, 130, 158, 178, 179, 183-83, 197, 198, 226, 228, 229, 238-59, 260-61, 261-68, 269, 272-74, 289, 302-3, 320-22, 324, 327-29, 338, 339, 352, 356-57, 360, 361, 363, 364, 386, 397, 394, 396, 398-99, 401, 402, 403, 407, 408, 409, 422, 423, 423-28, 429, 430, 430-40, 441, 442, 443, 443-59.
Amendments proposed and negatived ... ... 11-21, 21-26, 26-50, 50-64, 64-65, 71-89, 89-92, 92-95, 104-106, 106-108, 110-25, 130-33, 137-53, 154, 155-58, 162-66, 166-76, 176-78, 179-81, 181-83, 186-87, 189-91, 191-93, 193-94, 194—96, 197-98, 201-12, 212-20, 221-25, 226-28, 229-58, 237-59, 260, 269-70, 274-88, 289-94, 294-98, 298-300, 301, 305-319, 322-24, 324-26, 325-26, 330-37, 338, 339, 341-49, 350-52, 352-54, 354-56, 358-59, 360, 361, 362-63, 364-67, 367-70, 370-74, 375-79, 379-82, 383, 383-84, 387-94, 395, 396-98, 399-401, 402, 405-407, 418-22.
Amendments proposed and withdrawn ... 97—98, 154, 187-89, 221, 301-302, 320, 326, 329, 339, 349-50, 352, 356, 360, 379, 383, 384-86.
" " postponed 136-37, 274-85
Bill passed 459

PAGE.

COUNCIL OF THE LIEUTENANT-GOVERNOR OF BENGAL FOR MAKING LAWS AND REGULATIONS.

Adjournments of— ... ... 8, 33, 69, 96, 133, 159, 199, 236, 270, 302, 339, 374, 410, 416.

" " *sine die* ... ... 128, 459.

Divisions of— ... ... 21, 26, 49, 50, 64, 65, 69, 89, 125, 128, 153, 154, 176, 179, 181, 183, 186, 191, 193, 194, 196, 198, 212, 228, 258, 259, 260, 268, 294, 298, 300, 322, 325, 326, 337, 338, 354, 359, 363, 367, 370, 379, 383, 401, 407, 423, 440, 442, 459.

Meetings of— ... ... 1, 9, 34, 70, 97, 129, 135, 161, 201, 237, 271, 305, 341, 375, 417.

CROFT. HON'BLE SIR ALFRED—

Calcutta Municipal Consolidation Bill ... 54, 66, 86, 89, 110, 127, 360, 394, 425, 426, 428, 442, 448.

D.

DEBATES IN COUNCIL ON—

Calcutta Municipal Consolidation Bill ... 1-8, 9-33, 34-69, 70-96, 97-128, 130-33, 135-58, 162-99, 201-36, 237-70, 272-308, 305-39, 341-74, 375-410, 418-59.

Mofussil Municipalities Act Amendment Bill ... ... 412-14.

DIVISIONS OF COUNCIL. See *Council*.

G.

GOOROO DASS BANERJEE. See *Banerjee*.

H.

HARRISON. HON'BLE SIR HENRY—

Calcutta Municipal Consolidation Bill ... 1, 8, 11, 17, 24, 25, 34, 37, 56, 65, 68, 70, 80, 90, 92, 94, 95, 96, 97, 99, 101, 102, 103, 104, 105, 106, 107, 116, 126, 129, 130, 131, 135, 136, 138, 145, 156, 158, 162, 165, 166, 174, 178, 179, 183, 186, 187, 189, 190, 191, 192, 194, 195, 197, 198, 201, 204, 218, 220, 222, 225, 226, 228, 231, 236, 237, 257, 260, 261, 269, 272, 274, 280, 286, 288, 289, 293, 294, 295, 296, 297, 298, 301, 302, 308, 305, 311, 317, 321, 323, 324, 325, 326, 327, 329, 332, 339, 344, 346, 350, 351, 352, 353, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 368, 372, 375, 377, 380, 381, 382, 383, 395, 386, 391, 395, 396, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 418, 419, 422, 423, 427, 428, 429, 430, 438, 440, 441, 442, 443, 452.

INDEX.

PAGE.

HOWRAH BRIDGE ACT AMENDMENT BILL.
Leave to introduce 341
Introduced and read in Council 415
Referred to Select Committee 416
Report of Select Committee presented 417
" " considered ... ... *ib.*
Bill passed ... ... *ib.*

I.

IRVING. HON'BLE G —
Calcutta Municipal Consolidation Bill ... 35. 63. 65. 95. 102, 103, 104, 105, 106

J.

JUBBAR. HON'BLE MOULVIE ABDUL—
Calcutta Municipal Consolidation Bill 60, 75, 197, 292, 389

K.

KALI NATH MITTER. See *Mitter.*

L.

LIEUTENANT-GOVERNOR OF BENGAL. (HON'BLE SIR STEUART COLVIN BAYLEY)—*President.*
Adjournment of Council Meeting 123, 410
Calcutta Municipal Consolidation Bill ... 6, 9, 24, 34, 59, 98, 101, 103, 105, 107, 124, 130, 133, 136, 137, 139, 164, 175, 177, 208, 215, 219, 236, 271, 287, 288, 297, 302, 325, 326, 328, 334, 352, 366, 373, 381, 393, 399, 404, 405, 406, 419, 425, 433, 439, 454.
Howrah Bridge Act Amendment Bill 416
Mofussil Municipalities Act Amendment Bill 414
Suspended rules in case of Mofussil Municipalities Act Amendment Bill ... 411

M.

MACAULAY. HON'BLE C. P. L.—
Calcutta Municipal Consolidation Bill 44, 60, 98, 101, 107, 131, 132, 156, 171, 201, 210, 217, 284, 299, 387, 389, 405, 406.
Howrah Bridge Act Amendment Bill 341, 415, 416, 417
Mofussil Municipalities Act Amendment Bill 158, 161, 201, 411, 413, 414, 417

MACAULAY. HON'BLE C. P. L., appointed to Select Committees on—
Howrah Bridge Act Amendment Bill 416
Mofussil Municipalities Act Amendment Bill 161

MAHENDRA LAL SIRCAR. See *Sircar.*

MEETINGS. See *Council.*

MEMBERS. See *New Members.*

INDEX.

PAGE.

MITTER. HON'BLE BABU KALI NATH—
Calcutta Municipal Consolidation Bill 7, 14, 26, 48, 63, 71, 87, 93, 101, 103, 106, 107, 108, 122, 130, 132, 137, 139, 149, 155, 157, 172, 178, 179, 185, 186, 187, 191, 194, 196, 198, 212, 218, 219, 220, 221, 224, 226, 227, 232, 253, 265, 269, 270, 273, 274, 284, 290, 295, 297, 298, 300, 301, 302, 305, 317, 324, 325, 327, 328, 329, 330, 335, 339, 344, 348, 349, 350, 352, 354, 357, 358, 359, 360, 361, 362, 363, 364, 366, 367, 369, 370, 372, 376, 378, 379, 380, 382, 383, 384, 386, 387, 392, 395, 397, 398, 399, 403, 406, 409, 418, 421, 426, 435, 444.

MITTER. HON'BLE BABU KALI NATH, appointed to Select Committee on—
Howrah Bridge Act Amendment Bill 416

MOFUSSIL MUNICIPALITIES ACT AMENDMENT BILL.
Leave to introduce 158
Introduced and read in Council 161
Presentation of Select Committee's report postponed 201
Report of Select Committee presented 411
" " considered ... ... *ib.*
Amendment proposed and negatived 412-414
Passing of Bill postponed 414
Bill passed 417

MOORE. HON'BLE C. H.—
Calcutta Municipal Consolidation Bill 47, 61, 207, 402

MOORE. HON'BLE C. H., appointed to Select Committee on—
Calcutta Municipal Consolidation Bill 8

MUNICIPALITIES. See *Calcutta Municipal Consolidation Bill*; *Mofussil Municipalities Act Amendment Bill.*

N.

NEW MEMBERS—
Hon'ble Mr. C. H. Moore (took his seat in Council on the 7th January, 1888) ... 1
Hon'ble Dr. Gooroo Das Banerjee (took his seat in Council on the 7th January, 1888) *ib.*
Hon'ble Mr. H. Pratt (took his seat in Council on the 4th April, 1888) ... 135

P.

PAUL. HON'BLE G. C.—See *Advocate-General of Bengal.*

PRATT. HON'BLE H.—
Calcutta Municipal Consolidation Bill 208

PRATT. HON'BLE H., appointed to Select Committee on—
Howrah Bridge Act Amendment Bill 416

PRESIDENT. See *Lieutenant-Governor of Bengal.*

R.

REYNOLDS. HON'BLE H. J.—
Calcutta Municipal Consolidation Bill 96, 190, 302, 398, 407

PAGE.

REYNOLDS. HON'BLE H. J., appointed to Select Committee on—
Howrah Bridge Act Amendment Bill 416

RULES OF THE COUNCIL. Suspension of—
Mofussil Municipalities Act Amendment Bill 411

S.

SELECT COMMITTEES—

	Appointed.	Report presented.	Report considered.
	Page.	Page.	Page.
Calcutta Municipal Consolidation Bill	.....	(Further preliminary.) 1	(Further preliminary.) 11
Howrah Bridge Act Amendment Bill	416	417	417
Mofussil Municipalities Act Amendment Bill ...	161	411	411

SIRCAR. HON'BLE DR. MAHENDRA LAL—
Calcutta Municipal Consolidation Bill ... 16, 25, 47, 107, 120, 137, 249, 294, 297, 368, 378, 380, 381, 406, 408

SUSPENSION OF RULES. See *Rules of the Council.*

W. J.—Reg. N.. 600J—300—13-6-89.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 7th January, 1888.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The Hon. G. C. Paul, C.I.E., Advocate-General of Bengal.
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. Sir Henry Harrison, Kt.
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. G. Irving.
The Hon. Baboo Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Das Banerjee.

NEW MEMBERS.

The Hon. Mr. C. H. Moore and the Hon. Dr. Gooroo Das Banerjee took their seats in Council.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The Hon. Sir Henry Harrison presented the preliminary report of the Select Committee on the Bill "to consolidate and amend the law relating to the municipal affairs of the town and suburbs of Calcutta," and moved that it be published. He explained that the Select Committee, knowing that this part of the Bill would probably attract a special share of public attention, had thought it desirable, as soon as they had finished that portion of the Act which embodied the proposed constitution of the new Corporation, to lay these sections, with a preliminary report, before the Council, and to suggest for His Honour's consideration,

as the President, whether it would not be advisable to publish this report and this portion of the Bill separately, in order that the public might thus know the precise proposals which were coming before the Council. It also further appeared to the Committee—and he begged to suggest this for His Honour's consideration—that there might be no grave objection, after the new sections had been published for a reasonable period, to commence the consideration of them in Council without waiting for the final report of the Committee. It was probable that this part of the Bill would involve much discussion in Council, and obviously it would save time if they were able to commence the discussion of it without waiting for the procedure portion of the Bill which would follow.

Turning now to the new sections, it would be seen that the earlier sections referring to the number of members, the proportion of nominated and [illegible] Commissioners, and the number of wards, had not undergone any change in the hands of the Committee. This ought not to be taken as expressing the unanimous or even probably the general opinion of the Select Committee that this was the best possible constitution for Calcutta. It rather represented a compromise or mean between extreme views, the best system which they could put forward as involving the least radical changes. He himself had always maintained that larger wards would be more conducive to a good electoral system, but the Committee had not a *tabula rasa* to work upon. The town now consisted of eighteen wards, and there appeared to be a general sentiment in favour of keeping the present arrangement. On these grounds, therefore, the Committee had as it were gravitated to the conclusion that the best number of wards for the new constitution was 25, and thus no alteration had been made.

The only other point which required explanation was the action which the Committee had taken in regard to the system of voting. As the report explained, the plural vote was partially allowed in Calcutta by the present law, and it had partially grown up under the way in which that law had been construed. Now plural voting, as thus exercised, was in some respects open to grave objection. He himself remembered one case in which no less than twenty-nine persons claimed to vote as paying rates for a single property, and therefore last year the Committee had taken the first step in regulating

this. But they had been forced to admit that these sections, though they might diminish, would not remove the anomaly, and therefore the Committee found themselves in the position of being called upon to decide whether they would abandon the plural vote altogether or place it on a broad and equitable basis. It would be seen that the great majority of them were in favour of maintaining it, and, as he attached great importance to this principle, he hoped the Council would bear with him while he made an explanation of almost a personal character. He had naturally taken the greatest interest in the constitution of the Corporation of Calcutta. Twenty-six years ago the town was governed on what he might call an absolute or bureaucratic basis. Three officers appointed by the Government managed all its affairs. In 1863 the principle of associating a large number of the citizens in the administration of the town was introduced by vesting the control in the hands of the Justices. At the same time all the Justices were Government nominees, so that though practically this change did introduce a very considerable non-official and popular element, in theory it left the control as completely in the hands of the Government as before. In 1876 another step was taken and the system of election was introduced. Now from the many discussions, controversies, reports, and opinions which had clustered round this measure, it was evident to him that two rival conceptions were struggling for the mastery in the minds of the public. With many the elective system had been treated as identical with the admission of a principle which it was hardly an exaggeration to call the Divine right of majorities. It was regarded as equivalent to an admission that the majority of the people, whatever their fitness, whatever use they might make of their power, had a sort of inherent right to govern the town as they might please. It seemed to have been left out of sight altogether, he did not say by all persons, but by many, and he could cite several of the reports which had been addressed to this Council in illustration of this, that there was a middle course which widely differed in principle from this allegiance to majorities, viz., that it was advisable and expedient in the highest sense, in the cause of good government, that those classes and persons in the town who were most fitted to understand its interests and guide its administration wisely should be associated together in that administration, and that, as these classes knew best who understood their views and their wants, they should not have representatives

chosen for them by the Government, but should elect their own representatives as Commissioners. This principle held up fitness and not numbers as the final test, and nomination was expressly maintained side by side with election on purpose to secure a proper voice to the classes who possessed fitness without numbers. He himself had no doubt, and he thought that most of those he was addressing would agree, that this was the truer interpretation of the intention of the Legislature in introducing the elective system, and at any rate it was the only sound principle which could be applied to the government of a city like Calcutta. This was the view of the electoral system which he had consistently held from the time he had had any voice in the government of Calcutta, and he had observed that it led to continual misrepresentation of his views on one side or the other. If he said anything or wrote anything deprecating the Divine right of majorities, he was accused of backsliding and of advocating official absolutism. If he said anything in praise of the good work done by the elected representatives, it was at once assumed that he was desirous of seeing democratic institutions introduced into India, or at least into Calcutta. Now the question of the plural vote did seem to him to have some bearing on this very important principle. We naturally took the English electoral system as our model, and there we found two systems working in local bodies: the system of one-man-one-vote and the plural vote. If anything, the plural vote seemed the more favoured, but in boroughs the one-man-one-vote system was the law. This being so, and having reference to the fact that in the previous ten years in Calcutta an indirect plural vote had grown up, the Select Committee had felt themselves at liberty to recommend it as not inviting any radical change. He did submit that it was very desirable, having regard to the exaggerated views which were held regarding the bearing of an elective system, that that principle of voting should be adopted by the Council which most approximated to the true and correct theory.

Now, though it might be too much to say that the one-man-one-vote rule necessarily involved the principle of the inherent right of majorities to do what they liked in Calcutta, it was not too much to say that it decidedly looked in that direction, and, if adopted, it would so far go to confirm any erroneous views which were prevalent. It seemed to say that though the Legislature was still bound not to give a voice in the election of a Commissioner to those who

were totally disqualified, nevertheless, when it had once fixed the pecuniary limit which might be assumed to imply fitness, it was not justified in going any further, but must leave the numerical majority above this limit unchecked in their action, whether this led to the election of those who were most competent or least competent to govern the town. On the other hand, the adoption of the plural vote seemed to imply that the Legislation recognised degrees of fitness. It enshrined the principle that those who paid a larger share of taxation would, on the average, be fitter to govern, and while a minimum vote was to be given to a larger number paying the minimum in rates, nevertheless a more influential voice should be given to those who paid more and who might be expected to exercise their right of voting more wisely. Even if the practical difference between the two systems, the plural and the single vote, proved small, it seemed very important to adopt that method which indicated that the Legislature recognised degrees of fitness and not mere numerical majorities. This he held to be the only sound basis on which those interested in the well-being of the town could be associated together to form its governing body. Those who contended that the introduction of the elective system was tantamount to blind submission to the majority contended for a principle which must prove equally fatal to its expansion or its success. While those who contended that it meant the judicious conferring of power on those who were most fitted to exercise it, in proportion to their fitness, contended for a principle which he believed to be capable of extension with the happiest result. While, however, he mainly advocated this on the ground of principle, he did also think that it carried with it some practical advantages. They could not afford to allow the most intelligent citizens of the town to abstain altogether from the elections. He believed the system of polling would be productive of great good as regarded the poorer class of voters, but he did apprehend that there would be great difficulty in getting the more busy and wealthy voters to go to the poll. If only the one vote was given to them, that difficulty would be enhanced; but if they were given more votes in accordance with the amount of rates and taxes which they paid, they would be more important factors in the elections, and it would be less difficult to induce them to go to the poll. Suppose, for instance, a man of business in this part of the town was asked to give his one vote at the poll; if he knew

that his vote would count as one, he would think twice before he would go out of his way to give his one vote. But if he had to give six votes, he would feel that his vote was so important that he would submit to the sacrifice. As regards this number six, Sir Henry Harrison would draw attention to the fact that the maximum proposed extent of the plural vote was not 12 times that of the single vote, as might at first sight be supposed, but only six times as much. Six was the English limit, and therefore there appeared to be a precedent for taking six as the limit here. A vote in Calcutta had always meant a vote for each vacancy, and to take that away and say that it should only mean a vote for one candidate in future might seem like disfranchisement. Consequently the Committee thought it would be desirable to maintain the practice that when two Commissioners were to be elected, each elector had a vote for each candidate, or he might give both his votes to one candidate. Hitherto the usual practice had been to give all the votes to one man. Still every elector understood that he had the power of dividing his votes, and perhaps 10 to 15 per cent. of the electors had actually done so. The Committee therefore thought it preferable to leave the existing practice as it was, and thus the plural vote meant so many additional votes rising in a scale not strictly proportional, but up to a maximum of six times the minimum when the property was valued at over Rs. 5,000 a year. There had just been a number of elections in Bengal, and he had noticed that the general complaint had been precisely the complaint that obtained in Calcutta, that the number of unintelligent voters was so large that the election went by all sorts of artifices, and that the intelligent voters abstained from going to the poll because they were swamped. This had been specially contended regarding the Burdwan elections by the *Sanjibani*, which, in an article at the end of November, argued strongly against the one-man-one-vote system as swamping the more intelligent voters, and allowing the illiterate, as being the larger number, to govern the election. For these reasons he hoped the principle of the plural vote would commend itself to the Council, even if they thought it advisable to modify the details. With these remarks he begged to move that the preliminary report of the Committee be published.

HIS HONOUR THE PRESIDENT said that the hon'ble member who had just spoken had really made two motions, one that the preliminary report of the Select Committee on the Bill should be published, which was one about which there

could be no hesitation in the Council, and which His Honour believed was in the power of the President to sanction on his own motion; and the other, which was of a more novel character, was that, after giving due time for the consideration of the report before them, it should be taken into the consideration of the Council without reference to the fact that the final and complete report of the Select Committee could not by that time be before them. This was a matter in which His Honour placed himself entirely in the hands of the Council. If there was any opposition to the proposal, His Honour would not think it right to force it. If, on the other hand, there was no such opposition, he conceived they should all agree in looking at it as advantageous to make a commencement of what was likely to be a long and troublesome debate as early as could be consistent with giving the public full time to consider the report. If, therefore there was no objection to the procedure on principle, His Honour proposed to give three weeks' time and take the report into consideration on the 28th instant. But, as he said, His Honour was entirely in the hands of the Council in the matter, and he should like to know whether any member had any objections to the proposal that the report be taken into consideration without reference to the fact that the report of the Committee on the other parts of the Bill could not by that time be complete. His Honour, not being on the Select Committee, could not speak with authority, but he had reason to believe that it would not be long after that time that the report would be complete.

The Hon. Babu Kali Nath Mitter said he had one observation to make, He wished a full discussion to come on upon the Bill, and he thought it desirable that public opinion should be ascertained, in the first instance, before the discussion took place. The reason he rose to say a few words was this, He was one of those who had not signed the report, being entirely opposed to the principle adopted by the majority. The reasons which induced him to do so he craved leave to refer to on a future occasion when the matter would come up for full debate. He thought it advantageous to have this matter taken up before the other portions of the Bill were discussed, because these were important matters, and he doubted not they would take a long time to discuss fully. Therefore he would very much prefer the matter to be cleared up by discussion before the full report of the Select Committee came up before them.

The motion was put and agreed to.

The HON. SIR HENRY HARRISON also moved that the Hon. Mr. C. H. Moore and the Hon. Dr. Gooroo Das Banerjee be added to the Select Committee on the Bill to consolidate and amend the law relating to the Municipal affairs of the Town and Suburbs of Calcutta.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 28th January, 1888.

GORDON LEITH,
Offg. Assistant Secy. to the Govt. of Bengal,
Legislative Dept.

CALCUTTA,
The 10th January 1888.

T. B. C.—Reg. No. 797G—100—5-2-90.

[*Mr. Reynolds; Sir Henry Harrison; Babu Kali Nath Mitter.*]

The HON. MR. REYNOLDS said:—I am not in favour of this amendment. stead of putting obstructions in the way, there are many parts of the town which the construction of such verandahs should be encouraged, as they ord both shelter and shade to the public. It would be a great benefit if the t-paths in Government Place and Old Court House Street were covered h verandahs of this sort, so that people might walk from one end to the r in the shade under a colonnade such as exists in some parts of Bombay e is a further objection to the form of the amendment. If an annual rent e charged for the portion of the street covered by the verandah, it will ically encourage the person paying the rent to look upon that part of the as a part which he is entitled to use as he pleases.

The HON. SIR HENRY HARRISON said in reply:—I do not look upon this ment as a matter of much consequence, except that I believe it to be a iple of real injustice that the individual should get a very great advantage ut paying adequately for it.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON moved that, in line 2 of the second raph of section 435, for the words "are known to the Commissioners" ords "are registered under section one hundred and twenty-eight" be tuted; and that, in line 2 of the third paragraph, for the words "not " the words "not registered" be substituted.

He said:—It seems to me that this amendment not only makes the ng more definite, but more fair. The section provides a mode of service an owner is known to the Commissioners. What is to constitute know- ? He may be known to one or two of the servants of the Corporation. head of a department to go round and find out whether any department e municipality knows the owner? On the other hand, there is a plain and ct means by which an owner can bring his residence to the knowledge of e Commissioners, viz., by registration. I think this amendment will be an mprovement, and will also be just and equitable.

The HON. BABU KALI NATH MITTER said:—There are many house-owners whose names are not registered, and yet they are well known to the Corpora- ion, whereas the amendment proposes to say that if a man's name is not

sun and rain, leave should be granted subject to certain safeguards. They ar improvements of the finest possible description to the houses themselves, an having once given sanction we have now about twenty of these in the tow I will not say they are not advantageous to the town itself; but to the own of the houses they are an enormous advantage, and they pay only one fee all. It seems to me fair that when a person gets a very great advantage should pay something commensurate for it; and therefore I think that w a verandah is built with props or supports on the street, the form of c should be an annual rent instead of the payment of a single fee.

The Hon. the Advocate-General said:—I oppose this amendmei happen to know the circumstances out of which this question has aris think the charge proposed will be exorbitant. These verandahs are admit be a benefit to the publi[illegible] will not satisfy the [illegible]cipal Commissioners! They want to levy an an[illegible] fee for what? Allowing the owners of houses to occupy a few inches few feet of g[illegible] on which pillars are placed, and they want to cha rental on the[illegible] of the area covered by the verandah. The area occupied them, passengers pass underneath, and are sheltered from t and ra[illegible] the charge appears to me exorbitant. I am surprised to he hon. member in charge of the Bill say that it is a matter of justice; fr point of view it is a matter of injustice.

The Hon. Babu Kali Nath Mitter said:—The Commissioners nothing to do with this; my hon. friend brings this proposal forward at h instance. I have to point out, in addition to the argument of my hon. f that it is an improvement and a benefit to the public; that the ma only pays a fee, but has to pay rates on an increased assessment on property by way of a permanent charge. It was pointed out that a fe Rs. 100 is a very small fee for all cases, and the Select Committee fixed Rs. as a maximum. That should be ample for all purposes. We had no intimati from the Hon. Member that he was not satisfied with that, and that he woul bring forward a further amendment. If he wanted to impose this additional charge, he should have informed the Select Committee of it. But apart from that, I shall oppose the amendment.

"All fines imposed by a Magistrate under this Act shall be levied under the provisions of sections three hundred and eighty-six, three hundred and eighty-seven, three hundred and eighty-eight, three hundred and eighty-nine of the said Code."

He said:—This constitutes in fact two amendments. The gentleman who conducts the criminal prosecutions of the Corporation pointed out the desirability of making it clear whether anybody can prosecute, or only the Commissioners. I do not think it is desirable that any person except the Commissioners should have power to inaugurate prosecutions under the Act. That is the object of the first amendment. The second amendment is to add the words in the second paragraph. It was suggested by the same authority, who pointed out that it is very desirable to make it clear how the fine is to be levied.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison moved that, after the first paragraph of section 429, the following proviso be inserted:—

"Provided that, if the projection be a verandah supported by pillars or props resting on the public street, the Commissioners may, in lieu of a fee, charge an annual rent not exceeding Re. 1 per square yard of the public street covered by such verandah, if a verandah of only one storey, or Rs. 1-8 per square yard, if a verandah of two or more storeys in height. It shall not be lawful to shut in the sides or front of such verandah so as to obstruct the air, whether with brick-work, wood-work, mats or any other materials."

He said:—I now come to an amendment to which I would ask the careful attention of the Council. I do not profess to say that it certainly ought to be adopted; but on the whole I think it is fair in the interests of the public, and I ask the Council to consider it from the point of view of justice to the public and the individual. Section 429 authorizes the construction of verandahs and projections. Under that section the Commissioners are allowed to charge a fee not exceeding Rs. 100, which has been increased in this Bill to Rs. 500 to meet special cases. A very few years ago only overhanging verandahs were sanctioned. Subsequently some one asked for leave—I do not think the Great Eastern Hotel started it—to put up a verandah over the pathway with supports on the footpath. The Town Council were not entirely agreed whether this should be allowed or not, but eventually the argument prevailed that as such verandahs would give shelter to the public from

and rain

The BABU KALI NATH MITTER moved that section 390 be omitted.

He said:—This section authorizes a Magistrate to declare a house unfit for human habitation and to prohibit it being used for such purpose. The section is almost precisely the same as section 319, and as that section has been passed, I do not see the use of enacting it again in section 390. It practically leaves everything to the discretion of the Magistrate. The only difference is that here it is included in the chapter of nuisances, and section 319 is in the chapter relating to inspection and sanitary regulation. I believe the confusion has arisen from one section having been borrowed from the English Act, and the other from the Bombay Bill. I believe that the Bombay Bill has been borrowed from the English Act.

The HON. SIR HENRY HARRISON said:—This section did not come by accident. We very carefully considered it in Select Committee, and we were within an ace of taking out one or the other, but it was eventually found they are not identical. It is desirable to make out quite clearly that the Magistrate has similar power whether the complaint is made to him under the procedure of this section or under the chapter relating to sanitary inspection. The sections are not taken one from the Bombay Act and the other from the English Act, and therefore reduplicated. This nuisance section has, I think, been adopted on the suggestion of the Health Society; it is a judicial procedure, and therefore it is left to the discretion of the Magistrate. It gives the same power to the Magistrate whether the question comes up on this procedure or the other, and it also annexes a penalty. Anyhow I cannot see any objection to it.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON moved that, for section 418, the following be substituted:—

"Every prosecution under this Act may be instituted by the Commissioners before any Magistrate having jurisdiction, who may summon the person charged to appear at a time and place to be mentioned in the summons; and if such person do not appear, the Magistrate may, upon proof of service of the summons, if no sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence. If such person do appear, then the procedure laid down in the Code of Criminal Procedure of 1882 from section two hundred and forty-two to section two hundred and forty-eight shall be followed.

the Council to-day—that the time when this section will come into force is not yet; that they will come into force by very slow degrees and I believe the value of these sections for present purposes—I am sorry to believe it—is more educational than practical. I hope that in time the Commissioners will work up to them, but I cannot expect they will be very strongly carried out. The learned Advocate-General threw out a suggestion to the hon. mover of the amendment to alter the section in a way in which the power of prosecution will not be altogether lost. Section 320 does not give power to prosecute, but only to get a declaratory order of a Magistrate. As he said, we want to retain some power to prosecute in cases where a deliberate nuisance is created by lodging-house keepers and people of that kind. If any form of words to cover that can be framed, I shall vote for him.

The Hon. Sir Alfred Croft said:—I would ask leave to move that the words "whether or not members of the same family" be omitted, so as to leave the clause general and in the same state as section 320.

The Hon. the Advocate-General said:—What I pointed out was that it would be hard to prosecute persons who cannot help themselves, for in such cases they would necessarily incur penalties they cannot avoid. I think that if section 320 is carefully read, it will be found not to apply to overcrowding by members of the same family. It deals with landlords and tenants. It requires the owner to abate the nuisance by reducing the number of lodgers or tenants, and the second clause of the section provides that where the owner has sublet the building, the landlord of the lodgers or tenants or other actual inmates shall be deemed to be the owner of the building.

The Hon. Babu Kali Nath Mitter's motion to omit clauses (*a*) to (*e*) of section 385 was put to the vote and negatived.

The Hon. Dr. Gooroo Dass Banerjee's motion to omit clause (*e*) of section 385 was also put to the vote and negatived.

The Hon. Sir Alfred Croft's motion that from clause (*e*) of section 385, the words "whether or not members of the same family" be omitted, was put to the vote and carried.

section 320; therefore as section 320 exists, there is no necessity for clause (*e*) of section 385, unless members of a joint family are intended to be included. If they are included, then undoubtedly this section gives larger powers. As regards the rest of the clauses, not a single argument has been advanced against my contention, and the case is left where it was when I moved my amendment. I said that in regard to most of these matters the Commissioners have the fullest power; they can put a stop to those nuisances at the expense of the owners; they can inspect; they can repair, and they can improve. And that being so, it is unnecessary to provide for prosecution in respect to those offences.

His Honour the President said:—As I have been personally appealed to, I should like to state, as far as I can recollect, that what I said on the subject of section 320 was that I did not doubt for an instant that the words of that section could be made to cover the case of a Hindu joint-family, but that if you look at the wording of what the Magistrate has to do (the wording of the declaration which the Magistrate has to make) it makes it perfectly clear that what is aimed at in the section is not the houses of Hindu families, but lodging-houses and such like. The order which he has to issue is an order to reduce the number of lodgers, tenants or other inmates, and I take it that the first two words would give the lines on which the order was to be based, and that the rest would be interpreted on the principle of *ejusdem generis*. I admit that they can be taken beyond, but I was giving my own interpretation of the section. So far as to that. It does seem to me that the ground covered by section 320 and the ground covered by clause (*e*) of section 385, which we are now discussing, is practically identical. On the whole I have some sympathy with the motion of the Hon. Dr. Goorpo Dass Banerjee in regard to clause (*e*), partly because the object, though not the method, is already provided very clearly and broadly by section 320, and because I think there is a good deal of force in the arguments which he has used, and which the Hon. Moulvie Abdul Jubbar has advanced on the part of the Mahomedan community, that to a great extent they cannot help themselves. But the reply to that really is that the Commissioners are the people who will exercise the authority which this section gives, and I think we may fairly trust to them to exercise it wisely and well. I am inclined to agree with what fell from the hon. member in charge of the Bill on another matter before

the same cases as the other section. The special object of the insertion of these clauses here is that any person who may feel himself aggrieved may give information to the Commissioners. We have had many cases in which persons have complained of nuisances in neighbouring houses, and there has been no way to help the complainants. We have had to tell them, if it is a nuisance you can institute a prosecution. but this section gives the Commissioners the power of themselves prosecuting. In the first instance a notice will be served, and if the person complies with the terms of the notice, well and good. If not, the matter will come before a Magistrate. That will be an easy, convenient, and just way of bringing to an issue the matter between the complainant and the person complained against.

The Hon. Babu Kali Nath Mitter said:—I have failed to understand the distinction which the hon. member in charge of the Bill has tried to introduce between section 320 and this section, apart from the general question whether the persons overcrowding belong to the same family or not. The distinction is this, that under this section the power lies in the Commissioners on the complaint of any person. What does section 320 say? "If it shall appear to the Commissioners." That includes cases where information is sent to the Commissioners, and in pursuance of such information they come to the conclusion that the building is overcrowded. Therefore, as regards the two sections, apart from the question of the inmates being members of the same family, there is no distinction. I certainly understood when we were discussing section 320 that Your Honour pointed that out. You styled what we advanced in support of our contention as hypercriticism based on a misapprehension of the meaning of the section, and, if my memory serves me rightly, the hon. member in charge of the Bill also referred to that section as being only intended for the cases mentioned by Your Honour [Sir Henry Harrison—I said that is how the section would ordinarily work.] The proceedings of the last meeting are not before us, but from the nature of the discussion the impression left on my mind was that, so far as the meaning of the section is concerned, it would apply to lodging-houses and places of that sort where overcrowding occurred. If that is so, then what the learned Advocate-General advanced is met by the existence of section 320 in the Act. He referred to a case which is precisely a case contemplated under

they are to be at liberty so to overcrowd a house as to render it dangerous and injurious to the health of their neighbours. It may be to the interest of the members of a family to take the risk of disease to themselves, but why should they be allowed to endanger the health of their neighbours? Birds when they overcrowd the nest are thrown out by the old birds, but the people of this country will not imitate nature. It is nonsense to say that they harm nobody but themselves: it is impossible they can overcrowd a house so as to render it dangerous to the health of the inmates and not affect their neighbours. The disease generated there must spread. There was never a doubt that the fact of being a source of danger to one's neighbours constitutes a nuisance, but there might have been a doubt whether people who voluntarily live in a house overcrowded so as to be dangerous to themselves created a state of things which amounts to a nuisance, and therefore this section says it does. It should be remembered that it is the Commissioners who will have to abate nuisances, and no doubt they will deal tenderly with cases of overcrowding by members of the same family. The Hon. Member opposite (Moulvie Abdul Jubbar) urged strongly the obligations of charity. That is mean charity which will provide for its objects by overcrowding a house so as to make it dangerous and injurious to health. That is no true charity, but an attempt to combine economy with ostensible charity. If a person wishes to be really charitable, let him provide proper quarters for his relatives and friends, so that their health will not be endangered. What is the use of charity except to keep a man alive, and what is the use of keeping a man alive by means which afflict him with disease? Let them practice true charity, and then they will have no objection to this clause.

The Hon. Member on my right (Dr. Gooroo Dass Banerjee) objects to this clause, because he says the same object is already provided for. If that is so, what is his objection to let the clause stand? A double-barrelled gun has a great advantage in shooting: one barrel may miss, and you kill with the other. I cannot see the force of his opposition to let a section stand which he says is already in the Bill. That objection might lie in the mouth of the hon. member in charge of the Bill, on the ground of symmetry.

The Hon. Sir Henry Harrison said:—As far as the objection on the ground of symmetry is concerned, I am bound to say that this will not meet

[Mr. Macaulay; The Advocate-General; Mr. Allen.]

addressed in support of them; but now that we are coming to the end of the long string of amendments, we should have two considerations before our minds: the first is that sanitary laws exist, and that it is our object and desire that they should be adhered to, and that pleadings of a special class which are brought to bear against them cannot be considered as against the claims of the community at large. The next is that the ends and object of these sanitary measures is the good of the people: and that we leave the administration of these measures to the Corporation which represent the community. We assume that this agency will administer them better than any other. The spirit of sanitary legislation requires that neither the rich nor the poor should be allowed to interfere with their operation. Bearing these two considerations in mind, I think we may put aside these amendments and proceed to carry the Bill into law.

The Hon. the Advocate General said:—I wish to point out to the Hon. Members who have spoken on clause (*e*) of this section that I limit my remarks, to one point of view, viz., that there may be some hardship in making clause (*e*) applicable to places where there are members of the same family. There are houses which are overcrowded by wealthy people who are not members of the same family. There is, for instance, a class of people who come from Madras—wealthy people who work on a capital of three or four lakhs of rupees, but who nevertheless crowd together to the number of sixty or seventy in one house. These people should not be exempt from the operation of this section. If they crowd together and render a house unhealthy, the powers of the Municipality should extend over them; therefore the amendment to leave out this clause altogether is too large. But with regard to members of the same family, there is something in what has fallen from the Hon. Member opposite (Moulvie Abdul Jubbar), that poor people very often cannot help themselves. People come to their houses, and they are wholly without the means of turning them away or of giving them more accommodation. I would therefore suggest that some modification of clause (*e*) be made so as to exclude from its operation members of the same family.

The Hon. Mr. Allen said:—I regret I cannot agree with the Hon. Advocate-General, that because a number of people are members of the same family

they are to be at liberty so to overcrowd a house as to render it dangerous and injurious to the health of their neighbours. It may be to the interest of the members of a family to take the risk of disease to themselves, but why should they be allowed to endanger the health of their neighbours? Birds when they overcrowd the nest are thrown out by the old birds, but the people of this country will not imitate nature. It is nonsense to say that they harm nobody but themselves: it is impossible they can overcrowd a house so as to render it dangerous to the health of the inmates and not affect their neighbours. The disease generated there must spread. There was never a doubt that the fact of being a source of danger to one's neighbours constitutes a nuisance, but there might have been a doubt whether people who voluntarily live in a house overcrowded so as to be dangerous to themselves created a state of things which amounts to a nuisance, and therefore this section says it does. It should be remembered that it is the Commissioners who will have to abate nuisances, and no doubt they will deal tenderly with cases of overcrowding by members of the same family. The Hon. Member opposite (Moulvie Abdul Jubbar) urged strongly the obligations of charity. That is mean charity which will provide for its objects by overcrowding a house so as to make it dangerous and injurious to health. That is no true charity, but an attempt to combine economy with ostensible charity. If a person wishes to be really charitable, let him provide proper quarters for his relatives and friends, so that their health will not be endangered. What is the use of charity except to keep a man alive, and what is the use of keeping a man alive by means which afflict him with disease? Let them practice true charity, and then they will have no objection to this clause.

The Hon. Member on my right (Dr. Gooroo Dass Banerjee) objects to this clause, because he says the same object is already provided for. If that is so, what is his objection to let the clause stand? A double-barrelled gun has a great advantage in shooting: one barrel may miss, and you kill with the other. I cannot see the force of his opposition to let a section stand which he says is already in the Bill. That objection might lie in the mouth of the hon. member in charge of the Bill, on the ground of symmetry.

The Hon. Sir Henry Harrison said:—As far as the objection on the ground of symmetry is concerned, I am bound to say that this will not meet

advanced in support of them; but now that we are coming to the end of the long string of amendments, we should have two considerations before our minds: the first is that sanitary laws exist, and that it is our object and desire that they should be adhered to, and that pleadings of a special class which are brought to bear against them cannot be considered as against the claims of the community at large. The next is that the ends and object of these sanitary measures is the good of the people: and that we leave the administration of these measures to the Corporation which represent the community. We assume that this agency will administer them better than any other. The spirit of sanitary legislation requires that neither the rich nor the poor should be allowed to interfere with their operation. Bearing these two considerations in mind, I think we may put aside these amendments and proceed to carry the Bill into law.

The Hon. the Advocate General said:—I wish to point out to the Hon. Members who have spoken on clause (*e*) of this section that I limit my remarks, to one point of view, viz., that there may be some hardship in making clause (*e*) applicable to places where there are members of the same family. There are houses which are overcrowded by wealthy people who are not members of the same family. There is, for instance, a class of people who come from Madras—wealthy people who work on a capital of three or four lakhs of rupees, but who nevertheless crowd together to the number of sixty or seventy in one house. These people should not be exempted from the operation of this section. If they crowd together and render a house unhealthy, the powers of the Municipality should extend over them; therefore the amendment to leave out this clause altogether is too large. But with regard to members of the same family, there is something in what has fallen from the Hon. Member opposite (Moulvie Abdul Jubbar), that poor people very often cannot help themselves. People come to their houses, and they are wholly without the means of turning them away or of giving them more accommodation. I would therefore suggest that some modification of clause (*e*) be made so as to exclude from its operation members of the same family.

The Hon. Mr. Allen said:—I regret I cannot agree with the Hon. Advocate-General, that because a number of people are members of the same family

[*Dr. Goroo Dass Banerjee; Moulvie Abdul Jubbar; Mr. Macaulay.*]

there is no reason why there should be a double provision. Section 320 will practically suffice to prevent overcrowding in cases where it may be necessary to exercise the power, and it is not necessary to have this clause as well.

The Hon. Moulvie Abdul Jubbar said:—I quite agree in all that has fallen from the Hon. Member who has just sat down, and I wish to add a few remarks in reference to clause (*e*). That clause, if passed into law, will neutralise the effect of that principle of charity in which we natives have been instructed from our infancy. We have been taught to be charitable to our relatives and friends, and to that principle it will not always be possible for us to attend, because under the provisions of this clause we may sometimes have to turn out of our house some of those who, under our religious obligations, or according to our social customs, we are bound to shelter and maintain. I do not know what the Hindu religion teaches its followers in regard to charity; but the Koran enjoins on every Mahomedan the duty of helping relatives, paupers and travellers, and no Mahomedan true to his faith can excuse himself from this duty on the plea which may be furnished by the Municipal law. An individual family includes not only one's parents and children, but relatives and dependants; and I do not see how, consistently with their duty, these relatives can be turned out of doors. There are few native houses which one with ideas of foreign sanitary regulations will not declare to be overcrowded in the sense of the words used in this clause. I therefore respectfully but earnestly hope that Your Honour will not sanction undue interference with the social habits and household affairs of the native community.

The Hon. Mr. Macaulay said:—It is with great reluctance that I wish to ask the Council to oppose the views which have been put forward on behalf of one section of the community by the Hon. Member who has just spoken. I think it is necessary that if people understand that charity begins at home, they should equally understand that in municipalities charity does not end at home. It is all very well to be charitable and to receive into one's house a number of relations and dependants; but you must also regard the health of the public. In connection with this subject, I would ask the hon. movers of these amendments whether it is not the fact that the Council has received these amendments and considered them carefully, and has exhibited great patience in listening to the arguments which have been

imprisonment or the sale of goods and chattels can do any good. If fines could improve the condition of the poorer classes, their condition would not be bad. In fact, the fine in the law appears to be a penalty for poverty."

The objection has been taken not in the interests of the rich, but of the poor in Calcutta; and considering that, as regards overcrowding a section has already been passed which relates to lodging-houses, &c., clause (*e*) of this section does not appear to be necessary. Other sections have also been passed which will enable the Commissioners to go into houses to see whether they are kept in a clean state, and, if not so kept, to have them cleaned and to realise the cost; therefore if there be anything which is likely to be injurious to health, the Commissioners may remove the cause, and clause (*d*) is superfluous. As regards the keeping of animals, provision has also been made by other sections; clause (*c*) is therefore not required. Clause (*a*), to my mind, is meaningless; certain specific acts are treated as nuisances, but this is a general clause. Then again, as regards clause (*b*), privies, cess-pools and drains are under the control of the Commissioners. If a drain gets choked, the Commissioners are allowed not only to point out the defect to the owner, but to repair them then and there. Therefore, the Commissioners have the fullest power in respect of all these matters without having recourse to a prosecution. I do not think that in cases in which the Commissioners have the power to take executive action and to recover the cost of works done, they should also be allowed to prosecute the parties and have them fined. On these grounds I move that clauses (*a*) to (*e*) of section 385 be omitted.

The Hon. Dr. Gooroo Dass Banerjee said:—I beg to move that clause (*e*) of this section be omitted. My amendment covers much smaller ground than that of my hon. friend. The question in my amendment has to some extent been discussed in connection with section 320, and it will be unnecessary to repeat what I said then. In the course of that discussion Your Honour observed that much of the apprehension regarding hardship resulting from the operation of that section was ill-founded. But the language of clause (*e*) is different from that section, and it is made expressly applicable to the case of the overcrowding of a dwelling-house by members of the same family, and that is one reason why I submit, subject to correction, that my apprehensions are better founded in the present instance. In the next place,

[Sir Henry Harrison; Babu Kali Nath Mitter.]

He said:—This is an amendment of a similar kind. The penalty clause provides that, whoever after the expiration of the time "uses such place or permits it to be used." This may be misunderstood. There is no objection to the place being used, but it is not to be used for one of the prohibited purposes, and the amendment is to make that clear and to prevent the possibility of misunderstanding.

The motion was put to the vote and carried.

The Hon. Babu Kali Nath Mitter moved that clauses (*a*) to (*e*) of section 885 be omitted.

He said:—The clauses ran thus:

"(*a*) Any premises in such a state as to be a nuisance or injurious to health:

(*b*) Any tank, well, ditch, gutter, watercourse, privy, urinal, cesspool, or drain so foul or in such a state as to be a nuisance or injurious to health:

(*c*) Any animal so kept as to be a nuisance or injurious to health:

(*d*) Any accumulation or deposit which is a nuisance or injurious to health:

(*e*) Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family:'

This is what the members of the British Indian Association say on this section—

"Looking to the extreme disparity between the modern ideas of European sanitarians about domestic arrangements and those of the people of this country, the clauses (*a*) to (*e*) of this section cannot but prove an engine of oppression, or a dead-letter. They would doubtless be beneficial to the Corporation by bringing in frequent fines under section 367; but they can do no good to the people at large. The clauses have been reproduced from an English Act, but they are totally unsuited for the condition of life in this city. Even in England it has not been possible to enforce them to the full extent. Take, for instance, the clause about overcrowding. The complaint in that respect has not yet been removed. In Calcutta it is impossible to remove it. When people congregate together in houses under circumstances which are *not* unavoidable, they may be well asked to disperse to prevent the air in the house becoming noxious; but when members of the same family are compelled under the force of circumstances to live together, and have not more airy and better ventilated quarters to go to, what are they to do? A poor man living in a hut with a wife and eight children may be quite inclined, against the ties of affection and in the interests of sanitation, to separate, but who will give him a second hut? Unless the Commissioners are prepared to provide free quarters in all such cases, it will be practically impossible to prevent overcrowding in houses under unavoidable circumstances. No amount of fine or

person, he ought not to be made responsible for what the tenant does. The hon. member in charge of the Bill says it is in the power of the landlord always to turn out the tenant. If a man lets his land for a certain term, he cannot be said after that to permit; he has no power over the land or the tenant. If his tenant were a tenant-at-will, it would be different. A man cannot be said to permit the tenant to do something when he has no power to prevent him, and I do not think it is intended to apply to a case of that sort. But when the landlord has the power to turn the tenant out and he permits, he is responsible. I can see no possible objection to that. If the law requires that a license should be taken out for a place of this description, and the landlord knows the land is to be used for that purpose without a license, why should he be allowed to assist any person to act in contravention of the law? The whole scope of the objection is to allow people to escape from the consequences of acts for which they ought to be liable.

The HON. BABU KALI NATH MITTER said in reply:—If the view of the hon. and learned Advocate-General is correct—and I suppose it must be taken to be correct—then there is no objection to this section; but the meaning which was given to it in Select Committee was very different, viz., that if the matter is brought to the notice of the landholder, and he still allows the same state of things to continue, he would be responsible. That is how the matter was understood in Committee. But if that is not the meaning, but the permission must be actual permission, I will not press the amendment.

The motion was then, by leave, withdrawn.

The HON. SIR HENRY HARRISON moved that, in line 2 of section 348, for the words "unregistered place" the words "not registered under section two hundred and ninety-seven of Bengal Act IV of 1876" be substituted.

He said:—This is only a verbal alteration, and provides fully for the object of the section. The expression "unregistered place" is ambiguous.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that, in lines 2 and 3 of the second paragraph of section 349, for the words "or permits it to be used" the words "for any of the purposes mentioned in section three hundred and forty-six, or permits it to be so used" be substituted.

[*Babu Kali Nath Mitter; Sir Henry Harrison; The Advocate-General.*]

put? If the tenant uses it in a way which is objectionable, the tenant is responsible. If he does not make a proper use of the land, and injury is caused to the neighbours, the tenant alone is to blame. How can the landholder, who has simply let out his land, remain responsible for animals being kept upon it in contravention of the law? The way in which this section was understood in Committee was that if it is brought to the notice of the landholder that his land is being used in a particular way, unless he puts a stop to it he would be considered to be so using the land. But it seems to me that the landholder would have no control as long as the tenant has a lease. If the landholder let his land for a certain specified purpose, that would be a different thing; but the purpose to which the land will be applied is never contemplated when the land is let. The person, having got a lease of the land, uses it as he thinks proper; if he puts the land to an improper use, he is responsible, and not the landholder.

The Hon. Sir Henry Harrison said:—This is one of the alterations in the existing law of which the urgent necessity has been shown by six years' practical working. At present the owner lets out the land, and a *goalabaree* is built upon it. The tenant is prosecuted for keeping it in an absolutely filthy condition, and is fined in a sum ranging from annas 4 to Rs. 10; he pays the fine, but the *goalabaree* remains in the same condition, and then we have another prosecution. There is nothing more difficult in the municipal administration than the endeavour to keep these *goalabarees* in a proper condition. There are some hundreds of prosecutions instituted annually, resulting in conviction after conviction, and the sole endeavour of the offender is to pay the fine which he tries to get made as small as possible, and he then hopes that he will not be troubled again for three or four months. The only real remedy is to make the owner of the land responsible for the use to which his land is put. The object is to prevent a landholder from letting his land for a *goalabaree* unless he is satisfied that the requirements of the law will be observed, and, when he does so let his land, he should be held responsible if it is kept in a filthy condition.

The Hon. the Advocate-General said:—I do not understand the discussion which has arisen on the construction of the word "permits" in this section. The contention is that if the owner lets his land to another

not to be let; if in the whole building, the whole building is not to be let. It does not mean that if cholera has occurred in one wing of a building, you are not to let out the other wing. Let us take the converse case. Are we to say that a person is with his eyes open to be allowed to let out the portion of a building in which he knows that a person has suffered from cholera or small-pox? Is that the spirit in which sanitary legislation is to be carried on?

The HON. THE ADVOCATE-GENERAL said:—The intention of this section is very clear. I cannot understand objections of the sort which have been raised to this and other cognate sections. One would have thought that Hindu sentiment would be in favour of strengthening all the purposes of sanitation. We have on one side an outcry that the people labour under heavy taxation; but here there are small measures designed to improve the health of the town without any additional taxation, and yet a complaint is preferred. I must say that I can have no sympathy with such objections: they should be more thoroughly considered before they are brought forward.

The HON. DR. GOOROO DASS BANERJEE said:—I am bound to say that Hindu sentiment is in favour of having a building, in which a person has suffered from an infectious disease, disinfected or purified in some manner or other before it is let out again for habitation.

The motion was put to the vote and negatived.

The HON. BABU KALI NATH MITTER moved the omission of section 336, which provided a penalty on the owner of any land who permits animals to be kept thereon for purposes of profit without a license.

He said:—I may at once say that I do not seek to enlist the sympathy of the learned Advocate-General in its favour. I do not want to enlist the sympathy of any of my colleagues. I move the amendments which I think I am bound to move, and if I am mistaken it is my misfortune. But it is wrong to suppose that I try to ask the sympathy of any Hon. Member. In regard to this section, suppose a landholder lets out five cottahs of land to a tenant. He does not know for what purpose the land is wanted. The tenant having taken the land for, say, six or eight months, what control has the landholder over the tenant as to the use to which the land will be

The HON. BABU KALI NATH MITTER'S motion being put, the Council divided:—

Ayes 6.	*Noes 7.*
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
The Hon. C. P. L. Macaulay.	The Hon. Sir Alfred Croft.
The Hon the Advocate-General.	The Hon. Sir Henry Harrison.
His Honour the President.	The Hon. T. T. Allen.
	The Hon. H. J. Reynolds.

So the Motion was negatived.

The HON. DR. GOOROO DASS BANERJEE'S motion was then, by leave, withdrawn.

The HON. BABU KALI NATH MITTER moved that section 332 be omitted.

He said:—This section provides that no person shall let a building or part of a building in which a person has been suffering from cholera, small-pox, diphtheria or typhoid fever, without having first disinfected the building or part thereof, and every article therein likely to retain infection, to the satisfaction of the Commissioners; not simply the room in which the disease occurred, but the whole building or part of the building. There are some houses which are let out in flats: that flat is not to be let out, and the Commissioners are to be judges of what is likely to retain infection. The words are so large that anything can be brought within the wording of the section. As I understand the section, it means that the building or any part thereof or any article therein likely to retain infection is to be disinfected, and the judges of what is likely to retain infection are to be the Commissioners. There are no qualifying words except those mentioned in the section. As soon as there is a case of cholera in any building, it will be supposed that the building should be disinfected, as it would be likely to retain infection. That will be the way in which this section will be worked.

The HON. SIR HENRY HARRISON said:—I read the section in just the opposite way from that in which my hon. friend does. The section is borrowed from an English Act, and has been in force in Bombay since 1872. It is intended to mean that if the danger lies in any part of the building, that part is

[*Babu Kali Nath Mitter; Dr. Gooroo Dass Banerjee; Sir Henry Harrison.*]

The HON. BABU KALI NATH MITTER's motion to omit section 325 was put to the vote and negatived.

The HON. DR. MAHENDRA LAL SIRCAR's motion to insert the words "after personal inspection" in line 2 after the words "Health Officer," was also put to the vote and negatived.

The HON. BABU KALI NATH MITTER moved that, in line 1 of clause 2 of section 326, for the word "may" the word "shall" be substituted; and that all the words from "but" to the end of the section, be omitted.

He said:—The object of this amendment is to make it compulsory on the Commissioners to pay compensation for the destruction of a hut under this section. If a hut is destroyed for the public benefit, I think the public should pay for it. We are here dealing with hut-owners who are generally men of humble means. The destruction of his hut may be a serious matter to him, and if it is destroyed for the public benefit, compensation should be paid, and not be left optional with the Commissioners.

The HON. DR. GOOROO DASS BANERJEE said:—The amendment in my name in regard to this section is substantially the same, and is made for precisely the same reasons as my hon. friend has advanced. It is this—that for the second paragraph of section 326 the following be substituted:—

"The Commissioners shall pay compensation to any person sustaining substantial damage by the destruction of any hut."

The HON. SIR HENRY HARRISON said:—This is a reasonable suggestion, nevertheless I submit that on the whole the weight of argument is against it. The section is exactly the same as in the Bombay Bill, that compensation *may* be given if the Corporation thinks fit. Would it never happen that the loss sustained by the individual was due to his own laches, and that in such a case it would not be justifiable for the Commissioners to give compensation? The tribunal which is made the judge will be a most lenient tribunal: the remarks which have been made by the hon. movers of the amendment will show how lenient the tribunal would be, and the cases in which compensation would not be given would be exceptionally bad.

[*Sir Henry Harrison; The Advocate-General; Dr. Mahendra Lal Sircar; The President; Mr. Allen.*]

The HON. SIR HENRY HARRISON said:—I have no particular objection to this amendment, but I feel, as my hon. friend Mr. Macaulay does, that the certificate of the Health Officer will only be given in cases in which he sees sufficient grounds. Suppose, for instance, that two leading practitioners in the town have visited the house of a person suffering from an infectious disease, and they report that the disinfection of the house is necessary to prevent the spread of the infection, the Health Officer may, under such circumstances, feel himself relieved from the necessity of inspecting the premises. Otherwise he would be bound to satisfy himself.

The HON. THE ADVOCATE-GENERAL said:—The Health Officer will be the person responsible for the certificate, and it may be left to him to do what is proper.

The HON. DR. MAHENDRA LAL SIRCAR said in reply:—I would not have proposed this amendment had not I known that duties of this kind are often perfunctorily performed. I have no objection to add the words "or after receiving the certificate of two qualified medical officers."

HIS HONOUR THE PRESIDENT said:—I cannot allow this further amendment without notice.

The HON. MR. ALLEN said:—I do not think the personal inspection of the Health Officer should be a necessary condition. Suppose ten persons in a house died from small-pox, and every one who goes into it takes the disease, will not such a state of things ascertained from his reports justify the Health Officer's certificate? What can personal inspection add to his knowledge? Disease germs are not visible to human eyes. The house is full of them: the angel of death is sitting in that house and strikes every one who enters. The Health Officer by going there may himself be struck, but otherwise personal inspection will tell him nothing. I consider therefore that no such restriction should be introduced into the section. The circumstances which come to the knowledge of the Health Officer in his ordinary report will be quite sufficient to enable him to determine whether or not he should give his certificate.

this may with propriety be introduced; the people will by that time have learned the principles of sanitary science; but at present a provision of this kind will be viewed with alarm, and the utility of it to my mind is extremely doubtful.

The HON. SIR HENRY HARRISON said:—We have got within measurable distance of the time when, in the opinion of my hon. friend, a provision of this sort will be admissible; but I am inclined to hope that if the Council adopts it now, that period of time will be shortened a little, and that nine years hence no objection will be seen to it. I admit that all the provisions of this section will be very slowly put into application. This is another section taken from the Bombay Bill. There it has been in force for the last sixteen years, and they do not wish to postpone it for another ten years. Should there be any place which, from want of cleansing or disinfection, might prove dangerous by the propagation of disease, there can be little doubt that a power of this kind should be left in the hands of the Corporation.

The HON. BABU KALI NATH MITTER said in reply:—There is nothing in the section to indicate the circumstances the existence of which will constitute the danger. The Commissioners are simply to judge on the certificate of the Health Officer; and, knowing as we do the propensities of Health Officers, there will be great danger of the section being put into operation without real necessity.

The HON. DR. MAHENDRA LAL SIRCAR said:—To guard against the certificate of the Health Officer being given on the report of his subordinates, whose opinion may not always be perfectly correct, I will, with the permission of the Council, move as an amendment that the words "after personal inspection" be inserted after "Health Officer" in line 2 of the section. I do not see that there can be any objection to the addition of these words.

The HON. MR MACAULAY said:—I really think we ought to assume that the Health Officer will not give his certificate without good grounds. He will not give it unless he is satisfied that the provision ought to be put in force in a particular case.

does not represent the Hindu sentiment; but I and my hon. friend opposite (Dr. Gooroo Dass Banerjee) do undertake to represent that sentiment. I will remind the hon. member in charge of the Bill that when this provision in its enlarged form was first introduced against my most strenuous opposition, he was pleased to say that the section would remain tentatively in the Bill, but if he found that the other Hindu members of the Council were opposed to it he would not insist on the section remaining. Since the Bill was referred back to the Select Committee, various representations from several public bodies had been received, and no doubt, having regard to those representations and to my objections, its operation was limited to the case of male persons, and the section was modified in other respects. That I freely admit; but at the same time I do not see any necessity for the section.

The HON. BABU KALI NATH MITTER's motion being put, the Council divided:—

Ayes 2.	*Noes* 11.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Babu Kali Nath Mitter.	The Hon. C. H. Moore.
	The Hon Dr. Mahendra Lal Sircar.
	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

THE HON. DR. GOOROO DASS BANERJEE then, by leave, withdrew his amendment to add the following proviso to the section:—"Provided that such person gives his consent to such removal."

The HON. BABU KALI NATH MITTER moved that section 325 be omitted.

He said:—This section provides for the cleansing or disinfecting of a building to prevent or check the spread of any dangerous disease. Probably ten years ence, when sanitary science is better understood by the people, a section like

[*Sir Henry Harrison; Dr. Mahendra Lal Sircar; Babu Kali Nath Mitter.*]

In Select Committee there was a strong feeling that if we made this concession it would practically nullify its effect. That was the opinion of the Health Officer, who expressed himself extremely disappointed with the section as it stands. It is a provision which would very rarely be put in force, and when it is put in force it will be in very urgent circumstances indeed. Conceive the case of a *dhobie* attacked with small-pox who remains in his house where others in his family are engaged in washing clothes. Can anything be more dangerous? Under these circumstances I think the section ought to stand, and that both the amendments ought to be rejected.

The HON. DR. MAHENDRA LAL SIRCAR said:—This section contemplates the case of only those persons who are without proper lodging or accommodation therefore, I do not see what possible objection there is to it. As regards the amendment of my hon. friend Dr. Gooroo Dass Banerjee, a person suffering from a dangerous epidemic disease may be incapable of giving his consent by loss of mind, and therefore it will be impossible to get his consent. I think it much better that a person who is without proper lodging or accommodation should be taken care of and treated in hospital, than that he should remain without proper care and treatment. I am sorry that, though a Hindu, I cannot support either of these amendments.

The HON. BABU KALI NATH MITTER said in reply:—There is one portion of the argument of the hon. member in charge of the Bill, wherein he said he found it difficult to understand how the fact of the Commissioners having control over the construction of buildings had anything to do with this section, which I have not been able to follow. If houses and huts are so constructed as to afford proper accommodation and ventilation, there can be no house or hut in regard to which it can be said that it does not afford proper accommodation or lodging. The section does not provide that every person who is suffering from a dangerous epidemic or infectious disease shall be removed to hospital, but that only persons who are so suffering and are without proper lodging or accommodation. Therefore my argument that the Commissioners have control over the construction of buildings and huts is material to the point at issue. I regret that my hon. friend opposite, though a Hindu, does not see any objection to the provisions of this section. Probably it is so, owing to the profession to which he belongs, but in this respect I am positive that he

instances where an orthodox Hindu would rather die from want of medical treatment than go to a hospital. Considering all things, therefore, I submit that this section should either be omitted, or it should be modified in the way indicated in my alternative amendment. I do not say this from any perverse spirit of hypercriticism, as I myself have the strongest dislike for any such spirit. Nor do I think one need be driven to a spirit of perverse hypercriticism, seeing that this Bill has so many features affording ground for very fair adverse criticism, sufficient to satisfy the most active critical propensity. And if I raise my feeble opposition to this section it is because, in my humble opinion, I think active compulsory interference with private rights ought to be confined to cases of extreme necessity, and also because, from my limited experience of men and things, I think that interference of this nature is often likely to lead to more harm than good. I therefore submit that if the Council is not prepared to omit this section altogether, at any rate they may allow it to be modified in the way I suggest.

The Hon. Sir Henry Harrison said:—I think the true object of this section has not been understood, because if it is modified in the way proposed, then, in the case of opposition on the part of the person affected with any such dangerous disease, the provision will be almost inoperative. The parallel provision in the Bombay law has been in force since 1872, and has been reproduced in the present Bill. Owing to opposition to this section in Select Committee, we introduced the words "male person," so as not to make the section apply to females, and then we confined its operation to persons who are "without proper lodging or accommodation." How can the control, which the Commissioners will have over the construction of buildings, have anything to do with the fact that persons who may come to work in Calcutta without their families may be so situated in the midst of other persons that their suffering from a dangerous epidemic disease will be extremely dangerous to other persons in the house and to the community at large? This power is always given in towns in England, and no objection has ever been taken to it. It is one of those cases in which the community at large is entitled to require the individual to sacrifice some portion of his rights for the public good. Should any person be allowed to claim the privilege of becoming a focus of epidemic disease? All that the section does is to require his removal to hospital.

members of the British Indian Association have also done so, and on beha of the Hindu community I also take exception to it. The effect of a sectio of this sort may be—I do not for a moment say it will be—the removal of Hindu from his place of abode to a hospital superintended by other tha Hindus. It will certainly interfere with the religion of the sufferer, and I d not think it was ever intended that by the municipal law the religious feeling of persons should be wounded in the manner contemplated by this section. As regards future habitations in Calcutta, the Commissioners under this law will have ample powers, and it will be impossible for any habitation to be constructed which would be unfit for habitation. They can object to any proposed building on the ground of the want of ventilation or open spaces and the like, because ample provision has been made for regulating the construction of buildings, whether masonry or otherwise. That being so, the danger contemplated by this section is of the remotest character and is not likely to happen. Therefore, under these circumstances, it will be a mistake to alarm the people by introducing a section like this, which in most cases will rem[illegible] a dead-letter, but which may in some cases, where people are not able to resist its operation, prove a great hardship. As far as well-to-do persons are concerned, the Commissioners will not be able to enforce the provision of this section: they can only be enforced in the case of poor persons who can ill afford to defend themselves. As I have pointed out, the Commissioners will have the fullest power to regulate the construction of buildings, and the chance of any such buildings existing in Calcutta will be as remote as one can conceive. I therefore move the omission of the section.

The Hon. Dr. Gooroo Dass Banerjee said:—I will support this motion as it is in fact also one of my own, and I ask leave to move as an alternative amendment that, in the event of this motion not being carried, the following proviso be added to the section:—"Provided that such person gives his consent to such removal." There is no doubt that the section has been framed for a most salutary purpose, but at the same time it seems clear that its enforcement, especially under the peculiar circumstances of this country, is likely to be attended with difficulty. In the case of one large section of the community,—the Hindus—of whom I venture to think I know something, its provisions will in many instances be attended with violence to their religious feelings. We all know of

inst

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

THE Council met at the Council Chamber on Saturday, the 28th April, 1888, at 11 A.M.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding.*
The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON, KT.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. BABU KALI NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.
The HON. C. H. MOORE.
The HON. DR. GOOROO DASS BANERJEE.
The HON. H. PRATT.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The HON. SIR HENRY HARRISON moved that the clauses of the Bill to consolidate and amend the Law relating to the municipal affairs of the Town and Suburbs of Calcutta, as further amended, be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 324 be omitted.

He said:—This section has met with serious opposition from various quarters. The public memorialists have, I believe, taken serious exception to it, and the

The HON. BABU KALI NATH MITTER'S motion to omit section 320 was put to the vote and negatived.

The HON. DR. GOOROO DASS BANERJEE'S motion to substitute "let out" for "used" in line 3 of the first paragraph of the same section, was also put to the vote and negatived.

The consideration of the further clauses of the Bill was postponed to the next sitting of the Council.

The Council was adjourned to Saturday, the 28th April, 1888, at 11 A. M.

WILLIAM GRAHAM,

CALCUTTA; *The 10th May*, 1888. } *For Assistant Secretary to the Govt. of Bengal, Legislative Department.*

Reg. No. 3116G—300—26-5-88.

Magistrate to prevent such overcrowding, and the Magistrate may * * * * require the owner of the building * * * * to abate the overcrowding thereof by reducing the number of lodgers, tenants *or other inmates* of the said building."

The word "inmates" will include owners living in their own houses with their families. If the intention is to limit the operation of the section to lodging-houses, why is it worded so as to include persons living in their own houses?

HIS HONOUR THE PRESIDENT said:—I never for a moment implied that the section could not be applied outside of lodging-houses, but I referred to the wording of the section that the Magistrate's order is to abate the overcrowding by reducing the number of lodgers, tenants, or inmates as giving the clear intention of the section. Both the native members who have addressed the Council have spoken of this section as if it was intended to apply to themselves and their friends and the middle classes of the native population. If the Hon. Members knew the history of this provision, and what is done under it in other places, they would not have spoken as they have done. It is intended to apply to what are called rabbit warrens and overcrowded lodging-houses, houses of ill-fame, and the like. If you adopt the Hon. Dr. Gooroo Dass Banerjee's amendment, and make the section apply only to houses let out to tenants, the owner may live in such a house himself and say it is not let out. You must have a larger section, although I quite admit that by an ingenious perversity the section may be brought to apply to the Hon. Members themselves. Suppose the Executive of the Corporation had no common sense and no fear of the Commissioners themselves before their eyes, and the Magistrate was equally devoid of common sense, then perhaps what the Hon. Members apprehend may happen. I do not mean to say that by an ingenious perversity that may not be done. By ingenious hypercriticism you can always find out extreme cases to which a law is not intended to apply, and in that way every law can be made to look ridiculous or incompatible with the welfare of some one in the country. But I cannot conceive, if the object and intention of the section are understood, that there should be any reasonable opposition to it. I cannot help thinking that the opposition is based on a misunderstanding of the real meaning and object of the section.

annoyance and irritation caused by the interference of the officers of the Municipality in carrying out the provisions of this section. I have only noticed some of the evils which will arise from the enforcement of this section. I do not think I have given any exaggerated picture at all, but should any Hon. Member think it to be exaggerated, I venture to say that, it is only because unfortunately for the majority of the natives his knowledge of them and of the conditions of their society is limited. I therefore earnestly beg of the Council not to allow this section to pass into law, for the simple reason that the remedy provided for it will prove infinitely worse than the disease.

The HON. SIR HENRY HARRISON said:—This section speaks so clearly for itself, that I do not think it necessary to say anything more on the subject. The section is taken from the Bombay law, and the Bombay law is taken from the English law, and I cannot see why there should be anything so peculiar in Calcutta, that what is acknowledged everywhere else to be an excellent provision should be considered here to be so great a hardship. It is a provision which will be rarely worked, but should a case occur where overcrowding is carried on to such a great extent as actually to lead to the apprehension of an outbreak of any epidemic disease, it seems to me that the Municipality is the proper authority to be invested with power of this nature.

The HON. BABU KALI NATH MITTER said in reply:—My hon. friend again brings in the Bombay law in support of the Bill, but he should remember that in Bombay there is no such thing as a joint-family, nor does such a system prevail in English towns, and it is idle to ignore a system which has taken deep root in this country. The system exists and legislation should be directed to existing conditions and not to the subversion of them. If the section is intended to apply to the overcrowding of houses let to tenants, such as lodging-houses, let that be made clear. [His Honour the President—It is so intended.] I am quite willing to leave the decision of the question to any lawyer, whether it is limited in its application to lodging-houses. The wording does not so restrict it, for the section runs thus:—

* If it shall appear to the Commissioners that any building used as a dwelling-house is so overcrowded as to endanger the health of the *inmates* thereof, they may apply to a

[*Dr. Gooroo Dass Banerjee.*]

The HON. DR. GOOROO DASS BANERJEE said:—I shall support this amendment, and I have in fact given notice of a similar motion; and I ask permission to move also in connection with it that, in the event of this motion being lost, the words "let out" be substituted for the word "used" in line 3 of the first paragraph of the section. This I move as an alternative amendment.

I quite admit that this section has been inserted in the Bill for a very excellent object, but considering all things I feel bound emphatically to protest against the retention of this section in the Bill. As I submit, this interference by legislation with private rights of property is not only unnecessary and useless, but is positively mischievous. It will be observed that the scope of the section is not limited to the case of lodging-houses, or to cases where there is a conflict of interest, where it is the interest of the owner to let in as many tenants as he can whilst their interest lies in the opposite direction, and where legislative interference may be thought necessary as a check on improper overcrowding. The section equally applies to houses occupied by their owners. But in these cases I submit self-interest is a sufficient protection. And if nevertheless houses occupied by their owners are found to be overcrowded, it is not because they do not know the disadvantages of overcrowding, but because they have not the means to avoid it. The section makes no provision for housing poor people who may be turned out of their houses under its operation. Is there any chapter of the Bill which enacts any workable system of poor law? When we cannot provide the real remedy, there is no good to interfere, because interference will only result in mischief, and people will be driven from bad to worse—from imperfect shelter to no shelter at all. Then there is another difficulty in the matter, even as regards those who are allowed to remain in the house after some inmates are turned out. Those who are Hindus will be placed under this disadvantage. Their law imposes on them the obligation of maintaining and providing accommodation for poor dependent members of the family, and the result will be that they will have to pay more for the maintenance and housing of those who have been turned out than when the whole of them were living together as a joint-family. Thus the little additional space which may be set free for the remaining inmates will have to be purchased at the cost of diminished means of living, for, *ex hypothesi*, the section will operate in this way only in the case of poor families. Then add to this the vexation,

The HON. DR. GOOROO DASS BANERJEE said in reply:—The remarks of the hon. member in charge of the Bill go to show that he has a very bad case. In fact he gave up the case he had to support and tried to support a very different case. He says the power is wanted for extraordinary cases, for cases where the house is inhabited not by the owner, but by tenants. [His Honour the President—I did not understand the Hon. Member to say anything of the kind.] [The Hon. Sir Henry Harrison—I said that generally it would be applied to such cases.] I understood him to give that as an instance in which the power would be exercised. Then he brought in support of this provision the extension of the privileges of local self-government. But the section before the Council confers no privileges on the Corporation as a representative body. If the section conferred this power only on the Commissioners in meeting, then the hon. member's argument only would be pertinent. If that concession is made, it may take off a good deal of the objections to this section.

The Motion being put, the Council divided:—

Ayes 4.	*Noes* 8.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER moved that section 320 be omitted.

He said:—In addition to the reasons which I have mentioned against the retention of section 319 of the Bill, an additional ground of objection against this section is the system which prevails here of all the members of a joint family living together. The Commissioners, for instance, may say that three persons only should reside in a particular house, when as a fact five persons are living in it; and that being so, I submit that this section ought to be struck out.

Commissioners must put the law in motion, and then they must satisfy an independent tribunal. It is all very well to talk of the necessity of making progress in local self-government. It is an experiment which has been tried in Calcutta for the last twelve years, and if you wish to induce the Government to trust the Commissioners further, is not this exactly the sort of extension of power you ought to expect? This section gives the Executive on behalf of the Commissioners the power of action, but the Corporation has full control over the Executive; and yet those who want the principles of local self-government to be advanced protest against their being entrusted with this power. I say that this and some other provisions of the Bill conferring extended powers on the Commissioners are the necessary result of the experiment of local self-Government having been tried and been found successful, and I cannot conceive any valid objection to a provision which is so safeguarded.

The Hon. Babu Kali Nath Mitter said in reply:—I wholly fail to see what the principles of local self-government have to do with this discussion. My hon. friend says this is an extension of the privileges conferred upon the Corporation, and yet it is objected to. He of course looks at the matter from his own point of view, but from my point of view local self-government means a very different thing from placing a power of this kind in the hands of the Commissioners. The proper extension of the principles of local self-government would be to confer greater privileges on the rate-payers, and not to intervene larger powers between the Commissioners and the rate-payers. I absolutely fail to see how local self-government has anything to do with this question. I have asked my hon. friend to point out a single case where the necessity for such a power has been shown, but he has not done so, and therefore I am justified in assuming that he is not in a position to do so. Then in the name of common sense I ask how is it possible that in the future any building will be erected which will be unfit for human habitation? If such a building is constructed in the future, the Executive of the Corporation will be responsible, for ample powers have been given to regulate the construction both of houses and huts. The only cases in regard to which it could have been possible to claim such a power are in respect of buildings already existing, and as no such case has ever been brought to notice, I am justified in saying that there can be no necessity for it in the future, unless the necessity should arise from the culpable negligence of the Commissioners.

The HON. DR. GOOROO DASS BANERJEE said:—I support this amendment, as it is one of which I myself gave notice, and my reason is shortly this. We can understand that the law should interfere to prohibit one man from using his property in such a manner as to be injurious to his neighbours. But the right of interfering with a man's use of property to prevent his injuring, not anybody else, but himself is a right, the exercise of which should be restricted to the very narrowest limits. It is only in very extreme cases that such a power should be conferred, and I submit that no case has been made out for conferring on a Magistrate the power to prohibit a man from dwelling in his own house. It is true that the Health Officer of the Corporation may be a learned expert in the science of sanitation, and it may be true that its executive officers may be zealous in the cause of sanitation; yet we ought to credit ordinary men with some degree of common sense and a knowledge of their own interests; and, in the great majority of cases they are better judges in that respect than the Municipal Commissioners or a Magistrate.

The HON. DR. MAHENDRA LAL SIRCAR said:—With all my love of sanitation I cannot allow this section to pass as it is without clear and definite rules being laid down in what respect a house may be considered to be unfit for human habitation. We may leave it to the discretion of the Commissioners and the judgment of a Magistrate, provided we lay down the conditions under which a house may be held to be unfit for habitation, but unless you do that you arm the Commissioners and the Magistrate with a power which might be exercised most arbitrarily to the great injury and annoyance of the occupiers of houses.

The HON. SIR HENRY HARRISON said:—I cannot admit that there is anything to commend this amendment to the Council. Although this power may be unknown in Calcutta, it has been exercised in Bombay for a long time without complaint, nor is there any proposal to give it up. It has been pointed out that we may credit ordinary men with a due sense of their own interests. But this power is not wanted to deal with ordinary cases, but with such cases as that in which somebody is trying to make somebody else live in a house which is unfit for human habitation, and it is a power which is necessary in the interests of the public. How can the power be exercised arbitrarily? The Commissioners do not claim the power for themselves. They ask to be permitted to bring evidence which will satisfy a Magistrate. First the

consider the question carefully before accepting it. For my own part I shall vote against the retention of these words in the section.

The Motion being put, the Council divided:—

Ayes 5.	*Noes 7.*
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
His Honour the President.	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.

So the Motion was negatived.

The Hon. Babu Kali Nath Mitter moved that section 319 be omitted.

He said:—This section authorises a Magistrate, on the application of the Commissioners, to declare any building to be unfit for human habitation and to prohibit its use as such. This is another unheard-of power, and may operate very prejudicially, especially in the case of the dwellings of joint-Hindu families. What is the owner to do with a building which has been condemned in this way? Why should not the Commissioners acquire it? The value of the property is gone. I challenge my hon. friend to show a house built within the last few years which is unfit for human habitation: houses built in the antediluvian period might be condemned, but not those now built. The condemnation or otherwise of a house will depend very much upon the Magistrate before whom the case is brought. If he is a would be sanitarian, he will most probably condemn it; but if the matter comes before a person who will judge on principles of common sense, the result will be different. What inconvenience has been felt from the want of such a provision? Has a single case occurred within the experience of my hon. friend where he considers an order of this kind ought to have been obtained? I have been a Municipal Commissioner since the introduction of the elective system, and I have never yet heard of such a case having been brought to the notice of the Corporation. I submit therefore that there is no necessity for such a provision of law, and that there is no authority for it.

Dr. McLeod downwards, say that that ought to be done. Next you want to keep it as an open space; you do not want huts built upon it, which at present have no power to prevent. If these sites are left in our hands for some time, we the effect will be extremely good, and I can see nothing unjust in it. The costs we are in all cases entitled to obtain, and the owner will have the same opportunity of challenging the bill. The operation of the provision will be very beneficial. It will not only do away with a large number of excuses, but it will enable us to keep the sites for the benefit of the public as open sites for a much longer period than they are so kept at present. It is a power which will be put in the hands of a public body, because it will be used for the public advantage.

The HON. BABU KALI NATH MITTER said in reply:—My hon. friend has omitted to refer to the cases where the parties have challenged the Commissioners to sue for the recovery of the expenses incurred. In many cases exorbitant demands have been made, and when disputed no steps have been taken for recovery. These are not the cases of poor people, and therefore the cost could easily be recovered if fair and just. Why should the Commissioners be allowed to retain the property? I submit that the reasons assigned by my hon. friend have no bearing on the subject. One of those reasons is that huts may not be erected upon the site for a certain time. The Commissioners have ample power to prevent either huts or houses being built upon the site. Is there any justice of equity in allowing the Commissioners to retain possession of the property without paying for the use of it? Suppose the Court admitted the objection taken by the owner: in such a case, would not the retention of the property be an aggravated injury? A man who contracts to build a house for another person is not allowed to retain possession of it until he is paid for having built it. Here the Commissioners can recover by distress and sale. Why, therefore, should this additional power be given?

HIS HONOUR THE PRESIDENT said:—It is for the Council to say how far the hon. member in charge of the Bill has answered the objection which, I am bound to say, is a very powerful one, though he has shown conclusively that the course which the section proposes to adopt is a very convenient one for the Executive. To me, however, the provision appears so much opposed to our ordinary legal ideas of private rights that the Council would do well to

is excessive; and it would be a hardship, when the claim is disputed, for the Commissioners to keep possession of the property until the dispute is settled,—it may be in six months or in a year. The Commissioners are not to pay for the property, but they may hold it in possession till the amount they claim is paid. There is no provision for compensation if the demand is found to be inequitable. It is an innovation in the law for the Commissioners to keep possession of the property improved by them, and to retain possession until their bill is paid, without making compensation to the person whose property has been retained. There is such a thing as an usufruct mortgage, where the person who holds the property realises the income, and applies the income to the reduction of the debt. But here the debt remains the same, and there is no provision for damages. I submit, therefore, that there is no authority for the provision which it is the object of my amendment to omit.

The Hon. Sir Henry Harrison said:—I quite admit that this is a clause which it is perfectly justifiable to criticise, but the reasons are sufficiently strong to justify the retention of this clause as perfectly equitable. At present we do a great deal of work in the way of tank-filling, and we shall have to do much more afterwards in the Suburbs. For the past seven or eight years the expenditure on this account has averaged Rs. 10,000 a year and our recoveries Rs. 5,000; therefore the general rate-payers have contributed one-half, the reason being that it is extremely difficult in many cases to recover the amount spent. One source of difficulty is that when the Bill is presented the owner pleads poverty, because the charge is considerable, but the enhancement in the value of the property far exceeds the cost. Then, in a very large number of cases, there are joint-owners; some say they had no notice and were not called upon to do the work; in other cases the owner sells the tank, and the new owner says he is not liable. In other cases, again, we cannot find any moveable property to attach, and for these and other reasons we recover only about half. By this provision you put your finger precisely on the difficulty and remove it. We do not want to make any profit out of the land, but it will be exceedingly advantageous if we can retain it for a time. What ought to be done to make the improvement complete is not done. The site should be planted with grass or trees as far as possible to take away the evil effects of the matter with which it is filled up. All the Health Officers of the Corporation, from

The HON. SIR HENRY HARRISON moved that, at the end of section 307, the following be inserted:—

"And the Commissioners may cleanse the premises, and the expenses thereby incurred shall be paid by the occupier."

He said:—What is most desirable is that the premises shall be cleansed, and hitherto we have always acted on that principle, and the bill has been paid. In one case, however, payment was refused. We thought we should be able to recover the cost, but the Law Committee considered that we could not recover, as the provision of the existing Act did not authorise the doing of the work.

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that, in clause 2 of section 315, the following words be omitted:—

"And until so paid the Commissioners may retain possession of the land or tank or the site of such tank, and utilise the same for public purposes."

He said:—The effect of this will be that the section will end at the words "and the expenses thereby incurred shall be paid by the owner." In the course of my experience I have come across very many cases where owners have raised objections to the quantity and quality of the work and have refused to pay the bill, and in many cases the Commissioners have not thought fit to go to court to realise the cost, because it was considered that the issue would be a very doubtful one. They have all the powers it is possible to confer upon them for realising their dues, and in addition to that to propose that the property improved by them should be retained by them until the amount is paid is an innovation not warranted in law. In such matters the Commissioners should not be placed in any higher position than that of any other persons who are called upon to make improvements or to execute works. Only a particular class of persons is allowed to retain possession of property of a particular nature as security for charges payable to them. With that exception all persons have to recover their dues by suit before the ordinary tribunals. My hon. friend knows that there is considerable difficulty in realising the cost of such improvements owing to various objections raised from time to time, and in many cases the objection is that the work is not properly done, or that the amount charged

The Hon. Babu Kali Nath Mitter said in reply:—My hon. friend has tried to introduce confusion into the argument by adverting to matters which do not concern us at all. At present the question of throwing rubbish on the streets is not before us. Power is given to the Commissioners to provide proper times and places for the throwing of rubbish, and after that has been done whoever throws or suffers rubbish to be thrown in contravention to such rules is under this section liable to a penalty. This section alters the existing law in many respects. It compels the occupier to prove a negative which is contrary to all principles of the English law of evidence: he must show that he has not done it. My hon. friend points out that it must be shown that it came from a particular house. That I submit is no protection, as that can easily be done by an ill disposed neighbour, and the presumption is to be that it was done by, or with the sufferance of, the occupier. I submit that that is contrary to all principles of law.

The Motion being put, the Council divided:—

Ayes 3.	*Noes* 9.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The Hon. Sir Henry Harrison moved that, in line 3 of section 305, the word "liquid" be omitted.

He said:—The expression used in this section is "offensive liquid matter," but "offensive matter" is so defined as to include liquids: therefore the word "liquid" should be omitted.

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 301 be omitted.

He said:—This section enacts that when rubbish, offensive matter or sewage is thrown or placed on any street in contravention of the rules prescribed for that purpose, it shall be presumed that the offence has been committed by, or with the sufferance of, the occupier of such building or land, unless the contrary be proved. The Municipal Commissioners are not only to be invested with certain powers, but they are to have presumptions of law in their favour. This is a presumption of law. If my neighbour who perhaps is inimical to me chooses to place some rubbish on the street in front of my house, I am to be presumed to be guilty of having thrown the rubbish on the street, and I am required to prove a negative, contrary to all principles of English law.

The HON. SIR HENRY HARRISON said:—There is a great deal of force in this objection, and it has been taken by the Government of India, but they have not insisted on it. But still more forcible is the necessity for a section of this kind, without which the law will be inoperative. The difficulty occurs in this wise. Rubbish is thrown out of a window, nothing but a hand is to be seen, and it is impossible to find out who did the act, because the mere fact of the rubbish coming from a particular house will not be sufficient. In Bombay there was a long discussion on this point, and they have in their Bill a section just parallel to this. It is quite impossible otherwise to exercise any control over the throwing of rubbish on the streets contrary to rule. It is one of the greatest evils in Calcutta. In other towns the people are not allowed to throw rubbish on the streets; here every one is allowed to treat the streets as the common sewer, and any attempt to deprive the people of the right is strongly resented. In the northern portion of the town they are not satisfied with throwing out rubbish once a day; the Commissioners would not hear of any proposal to limit the right to the morning only. The Executive does not object so much if the hours for throwing rubbish are limited, because after that the streets can be kept clean; but in the front of a bazar, for instance, it is done all day. If in addition to allowing the practice both in the morning and in the afternoon, when a person does throw out rubbish after the fixed hours, we have no power to deal with it because our hands are tied—improvement is hopeless. The presumption is the same in the Bombay Bill, but here it must be proved that it was thrown from some building or land.

[*Babu Kali Nath Mitter; Sir Henry Harrison.*]

The HON. BABU KALI NATH MITTER said in reply:—My hon. friend has trie to introduce confusion into the argument by adverting to matters which do nc concern us at all. At present the question of throwing rubbish on the streets : not before us. Power is given to the Commissioners to provide proper times an places for the throwing of rubbish, and after that has been done whoeve throws or suffers rubbish to be thrown in contravention to such rules is unde this section liable to a penalty. This section alters the existing law in man respects. It compels the occupier to prove a negative which is contrary to a principles of the English law of evidence: he must show that he has not done i My hon. friend points out that it must be shown that it came from a particul house. That I submit is no protection, as that can easily be done by an il disposed neighbour, and the presumption is to be that it was done by, or wit the sufferance of, the occupier. I submit that that is contrary to all principl of law.

The Motion being put, the Council divided:—

Ayes 3.	*Noes* 9.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The HON. SIR HENRY HARRISON moved that, in line 3 of section 30 the word "liquid" be omitted.

He said:—The expression used in this section is "offensive liquid matter," but "offensive matter" is so defined as to include liquids: therefore the wor "liquid" should be omitted.

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 301 be omitted.

He said:—This section enacts that when rubbish, offensive matter or sewage is thrown or placed on any street in contravention of the rules prescribed for that purpose, it shall be presumed that the offence has been committed by, or with the sufferance of, the occupier of such building or land, unless the contrary be proved. The Municipal Commissioners are not only to be invested with certain powers, but they are to have presumptions of law in their favour. This is a presumption of law. If my neighbour who perhaps is inimical to me chooses to place some rubbish on the street in front of my house, I am to be presumed to be guilty of having thrown the rubbish on the street, and I am required to prove a negative, contrary to all principles of English law.

The HON. SIR HENRY HARRISON said:—There is a great deal of force in this objection, and it has been taken by the Government of India, but they have not insisted on it. But still more forcible is the necessity for a section of this kind, without which the law will be inoperative. The difficulty occurs in this wise. Rubbish is thrown out of a window, nothing but a hand is to be seen, and it is impossible to find out who did the act, because the mere fact of the rubbish coming from a particular house will not be sufficient. In Bombay there was a long discussion on this point, and they have in their Bill a section just parallel to this. It is quite impossible otherwise to exercise any control over the throwing of rubbish on the streets contrary to rule. It is one of the greatest evils in Calcutta. In other towns the people are not allowed to throw rubbish on the streets; here every one is allowed to treat the streets as the common sewer, and any attempt to deprive the people of the right is strongly resented. In the northern portion of the town they are not satisfied with throwing out rubbish once a day; the Commissioners would not hear of any proposal to limit the right to the morning only. The Executive does not object so much if the hours for throwing rubbish are limited, because after that the streets can be kept clean; but in the front of a bazar, for instance, it is done all day. If in addition to allowing the practice both in the morning and in the afternoon, when a person does throw out rubbish after the fixed hours, we have no power to deal with it because our hands are tied—improvement is hopeless. The presumption is the same in the Bombay Bill, but here it must be proved that it was thrown from some building or land.

"permits any offensive matter or sewage to flow, or be put into any sewer be substituted.

He said:—This is a verbal amendment. A person cannot be said to throw or put offensive matter or sewage into any sewer.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison moved that, in line 6 of section 292, for the words "filth or other offensive matter" the words "sewage or offensive matter be substituted.

He said:—Just about this part of the Bill we adopted a suggestion made by the Hon. Mr. Macaulay, and defined "offensive matter" to mean dung, dirt putrid or putrifying substances and filth of any kind not included in the term "sewage," but this section contains the old wording which the definition of "offensive matter" is intended to supersede. This amendment is merely to substitute a properly defined word for the words previously existing.

The motion was put to the vote and carried, and so also were similar amendments moved by the Hon. Sir Henry Harrison in sections 300, 301, 303 and 344.

The Hon. Babu Kali Nath Mitter moved that, in line 6 of section 292 for the word "fifty" the word "thirty" be substituted.

He said:—In an earlier section we have provided that no hut shall be erected within thirty feet of a tank. Thirty feet is ample space, and will be sufficient protection against water being contaminated by any source. I therefore move that in the case of latrines, privies, urinals, &c., the same distance be prescribed.

The Hon. Sir Henry Harrison said:—I do not think sanitary authorities will at all agree with the Hon. Member in this matter. Our present rule is fifty feet in case of a latrine, privy or urinal, and has always been so, and it is the same in the Suburbs also. I quite admit that the rule may often cause inconvenience to a hut-owner who often cannot get any place for his privy, but we always have power to make a special exemption. It will be a retrogressive measure to substitute 30 feet for 50, when the rule is 50 feet now both in Calcutta and the Suburbs.

The motion was put to the vote and negatived.

[*Babu Kali Nath Mitter; Sir Alfred Croft; Sir Henry Harrison.*]

The HON. BABU KALI NATH MITTER said in reply:—My own experience is that the Commissioners themselves are not able to do this within 24 hours, and sometimes they take 48 hours, although they have the means to do it at hand; whereas a private person will have to get men to do it. I ask whether the health of the town will be in danger if the obstruction is not cleared in six hours.

The HON. SIR ALFRED CROFT stated that when he had occasion to call in the Commissioners, the obstruction was cleared in three hours.

The motion was put to the vote and negatived.

The HON. BABU KALI NATH MITTER, by leave, withdrew the motion that, in lines 5 and 6 of section 290, the words "twenty hours" be substituted for "one hour."

The HON. SIR HENRY HARRISON moved that, at the end of the second portion of section 290, the following be inserted:—

"And if any drain is choked, or if any other defect connected with the drain which requires to be forthwith remedied is brought to light by such inspection, the Commissioners shall then and there clear out the drain, or remedy the defect."

He said:—This is the section under which the drains are periodically inspected. If anything is found wrong which requires to be forthwith remedied, the Commissioners ought to do it at once.

The HON. BABU KALI NATH MITTER said:—One part of this provision is very objectionable. As far as a drain is concerned, there is not the slightest objection, but to deal with a stable or a cowhouse in this way would be very objectionable. Suppose the officer considers that the dimensions of the stable or cowhouse are not such as they ought to be, is he to pull it down at once? The defect may be in the construction of the cowhouse or stable.

[The HON. SIR HENRY HARRISON agreed to a verbal modification of the section to meet this objection; after which the motion was put to the vote and carried.]

The HON. SIR HENRY HARRISON moved that, in line 5 of section 291, for the words "any offensive matter or sewage into any sewer" the words

sufficient? Is it necessary that the Commissioners should also have a voice in the materials and dimensions of these places? The cases of privies and cess-pools and of stables and cowhouses seem to me entirely different. Why should the Commissioners have these powers in addition to the power of prosecution for a nuisance?

The Motion being put the Council divided:—

Ayes 2.	*Noes* 10.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Babu Kali Nath Mitter.	The Hon. C. H. Moore.
	The Hon. Dr. Mahendra Lal Sircar.
	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The Hon. Babu Kali Nath Mitter moved that, in line 4 of section 287, for the words "six hours" the words "twenty-four hours" be substituted.

He said:—This section requires the occupier of any premises to clear obstructions to drains within six hours of notice. I think six hours is too short a time. The notice may be delivered at the house at 11 o'clock, and the occupier may not return from work till 7 o'clock. Workmen will have to be procured before the work can be done, and therefore I think 24 hours is a reasonable time.

The Hon. Sir Henry Harrison said:—The penalty is absolutely *nil*, although it is a serious thing to allow a drain to be choked. We keep a special establishment for this purpose, and if notice is sent to the Overseer's office, the work will be done at once. The fee for clearing obstructions in drains used to be Rs. 2-8; but to facilitate such work the Commissioners reduced it to one rupee.

The HON. BABU KALI NATH MITTER moved that, in section 286, the words "stables and cowhouses," and in line 2 of section 288, the words "stable or cowhouse" be omitted.

He said:—The introduction of these words in these sections is an innovation: they do not exist in the present Act. These sections do not refer to public stables and cowhouses, but to stables and cowhouses in private houses, and I do not see why the Commissioners should be allowed any control over them. People who keep one or two horses or cows for private use would be unnecessarily harassed. Is it really necessary to make legislative provision on account of these small matters, especially when the Commissioners have been given full control as to the construction of buildings? I submit that there is no necessity whatever for including stables and cowhouses in these sections, which are mainly intended to deal with privies and cess-pools.

The HON. SIR HENRY HARRISON said:—It is quite correct to say that this provision is not to be found in the existing law, and it was introduced because there has been difficulty in dealing with these matters. At present we have no control over stables and cowhouses attached to private dwellings. It is quite as likely that in some cases stables or cowhouses kept in a filthy condition will be as injurious to health as badly constructed privies or cess-pools. We can make the owner of a stable or cowhouse run a drain along it, but we cannot compel him to make the floor pucca. In one or two cases in which we have tried, we have found that we have exceeded our authority. If stables and cowhouses in which three or four animals are kept are not made pucca, by being laid with brick-on-edge, they cannot possibly be kept clean. Nearly all these powers are necessary for the security of the neighbours, and we have frequent complaints from the next door neighbours where stables are not properly paved and kept clean. The law should allow the Commissioners to require the floors of stables and cowhouses to be kept in proper condition. I think it a reasonable power, and I do not believe that it will lead to any serious hardship.

The HON. BABU KALI NATH MITTER said in reply:—My hon. friend forgets that there is in the Bill a chapter relating to nuisances which will enable the Commissioners to prosecute persons for keeping any portion of their premises in an unhealthy condition; therefore under that chapter persons who keep their stables or cowhouses in a filthy condition can be prosecuted. Is not that quite

the words I propose are not inserted, it may be held that the only remedy is by suit. The insertion of these words are therefore necessary.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison moved that, at the end of section 277, the following be inserted:—

"For the purpose of efficiently draining any house or land under this section, the Commissioners may require any courtyard, alley or passage between two or more houses, to be paved with such materials and in such manner as may be approved of by them; and may require such paving to be kept in proper repair. They may also require the level of any such courtyard, alley or passage to be raised, if necessary, for the efficient drainage thereof."

He said:—This amendment is brought forward at the request both of the Engineer and the Health Officer, who point out that it is impossible in some cases satisfactorily to provide for the health of houses, if the courtyards are simply ponds; if they are not sufficiently paved to admit of the water running off. The power given is only discretionary; it will hardly be insisted on in the case of very poor people. In the case of the rich it is most usually done, but in the case of some houses where this ought to be done it is not, and the object of this amendment is to provide a remedy in such cases. It is a power which is closely allied to the subject of drainage.

The Hon. Babu Kali Nath Mitter said:—If my memory serves me rightly, a similar proposal was brought before the Town Council at the instance of the Health Officer. I did not see the list of business before this morning, and have not been able to trace the discussion, but if I recollect rightly very serious objections were raised to the proposal, and difficulties were pointed out which rendered further consideration necessary. It would have been advantageous if that discussion had been placed before this Council before they were asked to consider this amendment. My hon. friend has referred to the opinions of the Engineer and the Health Officer, and it would have been well if he had referred to the views of the Town Council also on this subject.

The motion was put to the vote and carried.

remonstrance, because I considered it to be just. When we have roads between the lines of huts and roads for conservancy carts, we ought to consider it sufficiently similar to an ordinary compound, and this rate ought not to be levied without the consent of the owner; and if you provide that the Commissioners will not be allowed to levy a special rate on a remodelled bustee, then you must define who is to be the person responsible for the conservancy of these open spaces. You must say that the zemindar is responsible for keeping the general drainage system of the bustee in order, and each hut owner for the portion of the drain which runs into his own premises; that the zemindar is responsible for keeping in order the "common ground," and the individual hut owners for the spaces before and behind their own huts, and the care of the common ground round a tank should go to the owner. It seems to me that some section of the kind is absolutely necessary, and I do not see that any better one has been suggested.

The motion was put to the vote and negatived.

The HON. BABU KALI NATH MITTER, by leave, withdrew the following motions which stood in his name:—(1) that, in line 14 of the first paragraph of section 268, the word "standard" be omitted; (2) that, in line 2 of the third paragraph of the same section, for the words "any standard" the word "such" be substituted; (3) that the fourth, fifth, and sixth paragraphs of the same section be omitted; (4) that, for the proviso of section 269, the following be substituted:—"Provided that, without the consent of the owners, no such rate shall be levied upon any bustee which has already been improved under the direction of the Commissioners."

The HON. SIR HENRY HARRISON moved that, at the end of section 270, the words "in such manner as a rate may be recovered" be inserted.

He said:—This section gives the Commissioners power to serve notices on the occupiers of a bustee, for the cleansing of which no special establishment is maintained, and which is in a filthy condition, to clean the same; and if the notices are not complied with within three days, they may clean the bustee and recover the cost from the occupiers. But the section does not say whether the cost is to be recovered. Throughout the Bill costs incurred in default of work being done by owners or occupiers are made recoverable as a rate. This is particu-

[*Babu Kali Nath Mitter; Sir Henry Harrison.*]

concerned. The main thoroughfares may be said to be required for the purposes of conservancy as well; but all the other roads, as well as the open spaces, will be for the benefit of the hut owners, and it seems hard that the owners alone should pay the rates on account of them. As occupiers the owners will be subject to many of the incidents of this Bill. If rubbish is thrown on the land, they may be punished under section 301, which provides that if any dust, dirt, filth or refuse is thrown on any street or place in contravention of certain sections, it shall be presumed that the offence was committed by or with the sufferance of the occupier, unless the contrary be proved That seems hard on persons who have let out their bustee lands and have very little to do with them. The conservancy of bustees is to be put into the hands of the Commissioners, and a special rate is to be levied on bustees so conserved, and therefore it seems to me that in addition to that the owners of the roads and open spaces in bustees should be considered as the occupiers of them, and should have to pay rates upon them.

The Hon. Sir Henry Harrison said:—It seems curious that the Hon. Member seeks to provide a remedy for what he complains of by omitting this section altogether. It is necessary to have some rule as to who is to be considered the occupation of bustee lands not occupied by huts. It is a source of considerable difficulty. It seems desirable that there should be some fair and equitable arrangement, and this arrangement tries to be fair. The section refers to "common ground," not to "open spaces." Suppose there is a tank in a bustee, and a space of 30 feet round the margin of the tank must be left vacant? How can you say that any particular hut owner can be looked upon as the occupier of that vacant space? Where you have open spaces between the huts you can do so. The owners of the land are not in any way responsible for the open spaces between the lines of huts which are left as the backyards of those huts. As regards the private roads, how can you make anybody but the owner of the land responsible as occupier? They are open to the whole of the bustee. But as regards roads the point is not of much consequence. It is not often that roads get to such an insanitary condition as to require prosecutions. Moreover, the peil should bear in mind that I introduced the proviso to section 269, that conservancy rate shall be levied on any remodelled bustee without consent of the owners, contrary to Dr. Simpson's strong and urgent

The HON. BABU KALI NATH MITTER said in reply:—By section 257 these roads remain the private property of the respective owners, and I fail to see how it is possible to impose by legislation an obligation on the owner not to utilise a particular plot of land for building, although he is at liberty to utilise the rest of his land for the purpose. If this section is omitted the Commissioners will still have power to require the opening out of proper roads, and this course will save interference with the rights of property for which there is, as far as I can see, no justification. It has been said that the standard plan will have been prepared with the fullest deliberation; but circumstances may be altered, and therefore what may have been done with the fullest deliberation at one time might operate with great hardship on a change of circumstances. If he is still the owner of the land, it is very hard lines not to be able to utilise his property in the way he thinks best, subject of course to the control of the Commissioners in respect of building regulations and so forth.

The Motion being put, the Council divided:—

Aye 1.	*Noes* 11.
The Hon. Babu Kali Nath Mitter.	The Hon. H. Pratt.
	The Hon. Dr. Gooroo Dass Banerjee.
	The Hon. C. H. Moore.
	The Hon. Dr. Mahendra Lal Sircar.
	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER moved that section 267 be omitted.

He said:—This section declares that the owners of bustee lands shall be deemed to be the occupiers of the roads and common ground or open spaces in their bustee, and the effect of it will be that the owners will have to pay rates and taxes in respect of all the roads and open spaces left expressly for the benefit of their tenants, it may be to the extent of one-half of the whole of the land. The rates and taxes, I submit, ought to be properly apportioned between the parties

bustee road? All that the Commissioners might do is to require the owner to find another outlet for the bustee. Probably that will be the way this provision will be worked, but that is not what is provided in the section.

The Hon. Sir Henry Harrison said:—The Hon. Member has raised a fair point; at the same time I may say that the section has been drafted with full forethought, and I believe it embodies the right principle. Looking to the deliberation with which the standard plan of a bustee is to be prepared, with full opportunity to the owner to object, when a certain piece of land, it may be belonging to several owners, has been marked off as a portion of a bustee road by which access is to be obtained for conservancy carts, it seems to me very inconvenient that the whole arrangement of the bustee should be upset because the owner of the land chooses to convert the particular spot into a dwelling-house. He could at the beginning have objected and reserved this particular land for building purposes. The other owners have very likely carefully planned how they will arrange and align the bustee roads to fit in with this, but in consequence of the caprice of one owner, or of a partition or death, the whole arrangement will be liable to be upset. It does happen so now, and in several cases we have been obliged to leave a bustee untouched, because the owner has said that he intends to build a house upon the site which has been chosen as the only good site for a road. When a certain piece of land has been chosen after full deliberation and consideration as one of the ways for people in the bustee getting out, and for access to the bustee from without, as well as for the purpose of scavenging, under my hon. friend's amendment the owner of that particular ground may after a time throw the whole out of gear. I believe the section in the Bill gives the fairest and best solution of the difficulty. If the section is omitted, the effect will be to very seriously encumber dealings with the bustee, not only on the part of the Corporation, but very much also on the part of other owners in the same bustee. Those whose land is further in, will not be able to get proper means of egress and ingress. I therefore think it is proper to reserve this power to the Commissioners, and it should be remembered that the Commissioners in meeting will be the final arbitrators. If there is necessity for a road and if another road can be substituted, they will easily give their consent to the proposed substitution.

cession to them of any value to reduce the proportion of two-thirds to 50 per cent., I think the concession might well be made. The proportion of two-thirds will apply only to very exceptional cases.

His Honour the President said:—I quite understand that the proportion of two-thirds is the maximum, and to omit the section will rather be an injury than otherwise to the clients of the hon. mover of the amendment. On the other hand, the reduction of the maximum from two-thirds to one-half seems to me to be a substantial concession. If I may advise I would suggest that this concession be adopted.

The Hon. Babu Kali Nath Mitter said in reply:—I have proceeded on the basis of the public memorial, which says: "Under section 263 owners will be required to set apart as much as two-thirds of bustee land for roads, &c., for purposes of bustee improvement. The section would really amount to confiscation of private property, and your Honour's memorialists beg to record their earnest protest against it." If the maximum is reduced to one-half it will satisfy nobody.

The motion was put to the vote and negativ

The Hon. Sir Henry Harrison then moved that in section 263 the words "one-half" be substituted for "two-thirds."

The motion was put to the vote and carried.

The Hon. Babu Kali Nath Mitter by leave withdrew the motion, of which notice had been given, that section 265 be omitted.

The Hon. Babu Kali Nath Mitter moved that section 266 be omitted.

He said:—This is a novel provision altogether. If the owner wants to remove his bustee land from the character of bustee land, why should he not utilise the road which is his private property? Why should the consent of the Commissioners be needed when the owner wants to build on this portion of his bustee land when the character of a bustee has been removed from it? If another road is needed for the portion of the land which may still continue as a bustee, the Commissioners will have power to have such a road opened. It may be that a portion of the existing road will be the most convenient site for building, and why should the owner be precluded from doing so simply because it has been a portion of a

of a bustee shall be left for roads, and not more than two-thirds for open spaces Under the section a tank is not to be included in this proportion. If this is intended as a power in the hands of the people of the bustee to insis on two-thirds of the land being left open, I submit that the power should not be given, especially when the fullest provision has been made as regard a standard plan, and more especially because the owners will have to pay rates in respect of this two-thirds of open land. In a subsequent section it is provided that where there are roads and so on, the owners of the property shall be considered as occupiers of such portions: therefore they will have to pay rates on the unoccupied lands. I submit that this section is not necessary but if it is intended to operate as a protection to the owner, the section will have to be modified very considerably.

The Hon. Sir Henry Harrison said:—As far as I represent the Executive of the Corporation, I shall not object to this section being omitted, its intention is to tie their hands: it imposes obligations, to some of which it will not be easy to conform. Whether my hon. friend can be taken to be the spokesman of the owners in this matter, I consider very doubtful. I do not think that a section of this kind can be omitted in the interests of bustee owners, as I think it affords them very considerable protection as regards the proportion of open lands. Obviously, two-thirds is the maximum; ordinarily, nothing like that proportion will be required. But there are some cases in which a considerable proportion of a bustee may consist of a tank with not a very large fringe of land round it; you must have a space of 30 feet from the tank to the huts and a space between two lines of huts, in such cases a considerable proportion must be unoccupied. At the same time if the Council thinks a maximum of two-thirds excessive, and that a less proportion will be a concession of value, I believe that a proportion of one-half may be fixed as a maximum without objection in 19 cases out of 20. It is only in one out of 20 cases that that proportion may prove embarrassing. We propose to apply the proportion of two-thirds to the case of each owner's land, not merely to the whole bustee. If the Council think the section is not wanted, as Chairman of the Corporation I may say there is no reason why it may not be omitted. But if the Council think it necessary for the protection of bustee owners, then if it would be a con-

He said:—The section which I propose is slightly different from section 257 of the Bill, and it provides, with a slight modification, all that is aimed at by that section.

The HON. SIR HENRY HARRISON said:—It seems to me that this section follows as a necessary consequence from the previous amendment being rejected. The section is adapted to the existing procedure. I was so sensitive of the fact of the slow and gradual working of the new system of standard plans that I thought it would not be wise to give up the more expeditious system we have at present, expeditious I mean as compared to the system of placing every hut in its proper place, which must be done gradually. I call the procedure under this section comparatively expeditious. The medical officers appointed to report upon a bustee are to prepare a standard plan, which would be carried out under the present procedure, and in all urgent cases this procedure will be adopted.

The HON. BABU KALI NATH MITTER said in reply:—After the explanation which the hon. member in charge of the Bill has given, I will withdraw this amendment.

The motion was, by leave, withdrawn.

The HON. BABU KALI NATH MITTER also, by leave, withdrew the following amendments, of which notice had been given:—

(1). That, for section 258, the following be substituted:—

"On receipt of the report of the medical officers, the Commissioners in meeting may cause a notice to be served upon the owners or occupiers of the hut, or, at the option of the Commissioners, the owner of the land on which such huts are built, requiring them to carry out and execute within a reasonable time to be fixed by the Commissioners for such purpose all or any of the works specified in the said report."

(2). That section 262 be omitted.

The HON. BABU KALI NATH MITTER moved that section 263 be omitted.

He said:—It seems to me that this section is not necessary, after having provided for the preparation of standard plans of the way in which bustees are to be improved, unless it be for the protection of the people themselves. But the provisions of this section really afford no protection. It provides that without the consent of the owners of the land not more than one-fifth of the area

building regulations and as regards section 247 have considerable force, and yet he was the first to oppose them. What I complain of is that this is a round-about procedure. If it is desirable to legislate in a matter of this kind, making it compulsory on owners of land to look after their property, a single section would suffice, by providing that no one shall let out his land for the building of huts unless with the sanction of the Commissioners. If a section of that kind be introduced, landowners will realise their position and feel the responsibility imposed on them by law. My hon. friend is not prepared to go to that extent. But why should he not adopt the simplest procedure, instead of so cumbrous a one to attain the object he has in view? Why should he not enact that no owner shall let out small parcels of land for the erection of huts without first obtaining the sanction of the Commissioners? I submit that there is no inconsistency in the position I have assumed. In the matter of the building regulations, I wanted to touch the man who sells the land, who derives the whole benefit, and not the innocent purchaser. But I failed. Then in the case of bustee lands, why introduce the system of joint plans and standard plans? Why not positively assert the principle that no one shall let out land for building huts unless he complies with a certain state of things? That will be the simplest way of dealing with the question.

The motion was put to the vote and negatived.

The Hon. Babu Kali Nath Mitter moved that, for section 257, the following be substituted:—

"When it appears to the Commissioners in meeting that any bustee is, by reason of the manner in which the huts are crowded together, or for any other reason, in an insanitary condition, and that the procedure provided by sections two hundred and fifty-two to two hundred and fifty-six will be too dilatory for improving such bustee, they may cause it to be inspected by two medical officers, who shall make a report in writing on the sanitary condition of the said bustee; and shall specify, if necessary, in the said report, the huts which should be wholly or in part removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up with a view to the removal of the risk of disease. The huts which together form a bustee under this Part may belong to several owners. The existence of a masonry wall, privy, shed or house in a bustee shall not preclude the Commissioners from dealing with such bustee in any way authorised by this Act."

blocks. Here the difficulties were great, and yet out of 60 huts now on the ground 52 of them have been placed in their proper positions on this arranged system, even after allowing for the difficulties of separate owners and of each plot belonging to one person. Nevertheless, 52 out of 60 huts now on the ground in the space we took have been fitted into their proper positions. There was still space left where at least eight huts more could be placed, but not the actual huts on the ground. This would be an inconvenience small in the extreme as compared with the object of these sections. The object is to have sufficient powers so as to arrange bustees according to a proper system. The power now existing is merely that of running roads through bustees, but nothing more, and although these roads admit of the scavenging of bustee, the object of laying out bustees in the manner proposed is to allow of proper ventilation. I maintain that the principle of these sections is certainly a very fair one. It is not unjust to the owner to say you must look after your property; you are not to give a cottah of land here and a cottah there and leave the tenant to deal with it as he likes; put a *goalabaree* here, a godown there, a shed for carts here, and a dwelling-house there: and you are not to be permitted to reply—I have nothing to do with that: all I want is my rent. What we say to the landlord is, you are bound to take so much forethought that the use to which your land is put is not to result in a sanitary evil, both to your tenants and to the neighbourhood. That is all we require the landlord to do. And I have not ventured to go further, because it is proper in a matter like this to proceed cautiously, although slowly. The first year will perhaps be taken up in calling for plans, hearing objections, and getting the machinery in order in three or four bustees. Then we can take up, say, 20 more and so on, and in the course of say six or seven years a considerable impression will be made. The progress will no doubt be very slow, because the sections, so far from being of a revolutionary character, will be found rather to be tortoise-like in their operation. I think it will be a pity if the Council thinks it right to omit these sections.

The HON BABU KALI NATH MITTER said in reply:—I must admit that on this occasion my hon. friend has undertaken to meet the arguments which I have advanced. He seems to think that I am somewhat inconsistent in the position I have taken. He has been pleased to say that my arguments as regards the

a plan, or if he fails to do so, the Municipality must do it for him. My hon. friend has spoken as if there is no necessity for these sections. Dr. Simpson has assured us several times that what we are doing in the way of running roads here and there in bustees is nothing in comparison to the advantage to be gained by having new bustees laid out on proper plans The Superintendent of Roads, under whose jurisdiction the building of huts falls, says he cannot possibly remedy the evil of huts being built promiscuously here and there; applications come in one by one, and the applications must in each case be answered within 14 days. If Hon. Members will glance at the bustee plans laid on the table, they will see that that is emphatically the one requirement in the bustees of Calcutta, the laying out of the huts on a systematic plan. Huts may be erected far apart, or they may be so closely dovetailed that you may just be able to creep between them. Each tenant can erect his hut just where he pleases. The only person who is in a position to remedy this radical defect is the owner of the land, and if he fails to do so, the municipality must lay down a plan, after hearing any objections which the owner has to offer. And this is what is provided for. My own conviction is that there will be none of the practical difficulties which my hon. friend anticipates. No owner need divide his land in absolutely equal blocks of land. He will run one line of sites, say 50 feet wide, for the largest class of huts, another perhaps of 40 feet in width, a third of 30 feet, a fourth of 20 feet, and perhaps also one line of 10 feet wide for the poorest class of tenants. It is only as to the breadth of the blocks that there will be any difficulty, because there is nothing to prevent a tenant from taking any length of line he pleases. A man who wants to build a hut will select any of the widths of land he wishes, and he can get any length of it which he desires. As a test of the facility with which bustee lands can be laid out in this way, I have had some plans prepared in the office. I have taken one of the existing blocks of huts, and have sketched it out on the proposed system, and have then got a draftsman to take the existing huts and fit them in. We took a piece of ground in the Rajah Bagan bustee and fitted every single hut on it into its place on this plan, and if the huts could be taken up on the American system and put down as shown on this plan, they could every one be transplanted and arranged in this unobjectionable manner. I next took Nathur Bagan bustee and cut it up into similar

are so diverse, that it will be very difficult for them to join in a common object. The section provides that if they do not agree, the Commissioners may prepare a standard plan. The Commissioners will no doubt try to prepare it in the best manner possible, but it is difficult to see how any plan prepared beforehand will meet the requirements of persons who may want to build huts for themselves. For instance, one cottah of land may be allotted as a building site, but the tenant may want three cottahs or five cottahs or even ten cottahs: he cannot get what he wants under this procedure. Under section 254 the owners may submit their objections to the plan prepared by the Commissioners, and so long as the standard plan is not completed no hut can be built upon the land. But under the preceding sections provision has already been made against the building of any hut without sanction; therefore sections 252 to 256 are wholly unnecessary. I therefore move the omission of these sections; their omission will not in any way cripple the powers of the Commissioners; they will remain the same, and as I have said before, if they are retained they will not work.

The Hon. Sir Henry Harrison said:—I must confess that I am a little disappointed at the criticism which has been directed against these sections, because, from the line of argument previously adopted by the Hon. Membe[illegible], I should have thought that these were provisions which my hon. friend would have supported. When we were considering the building regulations he pointed out that we were punishing the innocent purchaser of a small plot of land, whereas we ought to have dealt with the vendor. In regard to section 247 again, he argued that we were putting difficulties in the way of poor people in regard to the building of their huts; that they would not be allowed to build their huts; that the fault really lay with the landlord, who let his land in small parcels. I then referred my hon. friend to section 252, when he said he would come to that afterwards; and now the way he comes to it is to condemn that which he before said ought to commend itself to us. The object of these sections is precisely that which he so forcibly pressed upon us the other day. He pressed us then to go to the right person, the fountain head, and this is what is now proposed to be done. Under the existing law we have to deal with isolated cases, the building of a hut here and a hut there. The only way of laying out a bustee on any proper system is to require the owner or owners to submit

huts. No hut can be built without giving the information required by section 247, and therefore the powers given to the Commissioners are quite sufficient in regard to huts to be built hereafter. Sections 252 to 256 introduce a procedure which does not exist at present, and a procedure which is not suited to the requirements of the people, and there will be great difficulty in working it out by reason of the particular method adopted by the owners of land in letting it out. As I understand it, the owners of land let it out in small parcels to various individuals on a monthly rent, and each individual having taken the land he requires, applies to the Commissioners to build, and having got permission builds his hut. If the procedure was that the owner of the land himself built the huts, and let them out to tenants, there would be no difficulty. But that is never done in Calcutta. The huts are in most cases built by the tenants, and the landholder simply lets them the land in small parcels. That being so, the first difficulty to my mind is this: The landlord cannot foresee the requirements of the tenants, he cannot say whether his tenants will require smaller or larger parcels of land, and therefore it would be impossible for the owner to set apart particular sites for building on. This is a difficulty which I think it will be impossible to surmount. It is of no use shut our eyes to the existing state of things, for when the landlord is called upon to submit a plan jointly with the adjoining bustee owner, he will say I do not propose to build upon the land; I cannot say what will be the requirements of my tenants, and therefore I cannot possibly select the sites. The objection to my mind seems a very strong one. And having already provided for the regulation of huts, if hereafter huts are allowed to be crowded together or built in irregular lines, the persons who will be responsible will be the Commissioners themselves. The Commissioners have ample power to prevent the irregular building of huts, and therefore, as far as the future is concerned, no difficulty will arise. As regards huts already existing, I submit that the provisions of sections 247 and 248 give ample power to deal with the existing state of things. If huts are crowded together in any bustee, the Commissioners will have power to order certain roads to be opened out and certain sanitary improvements to be made. Section 252 provides for the owners submitting a joint plan. It will be a matter for congratulation if the owners can be made to agree to anything of the kind. Generally their views

provide an income sufficient to cover the necessary expenditure. Then as regards the disposal of the surplus, the Committee, with the single dissentient voice of Colonel Campbell, proposed to make over two lakhs of rupees to the Calcutta Municipality to help it in making a road to lead from the bridge towards the Sealdah station. Should the Council accept these proposals, they will require the amendment of three sections of the Act. As I said, section 3 prescribes the levy of local tolls. The Lieutenant-Governor has power to regulate them, but he has no power of exemption. It will be necessary to give him this power of exemption. Then under section 4, though the Lieutenant-Governor can reduce the terminal charges on goods, or exempt goods altogether, he has no power to re-impose them. However remote may be the contingency of their re-imposition, I think it will be prudent for the Council to provide for such re-imposition should unforeseen circumstances require it. Finally, section 18 requires that any surplus must be devoted to the purposes of the Act, and the section must be amended to admit of the grant being made to the Calcutta Municipality. These are the provisions of the Bill which I ask the leave of the Council to introduce.

The motion was put to the vote and carried.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The HON. SIR HENRY HARRISON moved that the clauses of the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta, as further amended, be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 252, 253, 254, 255, and 256 be omitted.

He said:—The Council has already provided by section 247 for notice and plans being submitted to the Commissioners before any hut can be built, and that and the following sections will, to all intents and purposes, be quite sufficient to regulate the building of huts in Calcutta, on land on which huts do not at present exist. If any piece of land is to be converted into a bustee, those two sections give ample power to regulate the erection of

should be remitted. In this opinion the Port Commissioners concurred, and they proposed the abolition of both. These questions were referred for the opinion of various local bodies. The Howrah Municipal Commissioners were, of course, in favour of the abolition of the local tolls. The Calcutta Trades' Association believed that people had become accustomed to the terminal charges, and considered that the local tolls should be abolished. The Calcutta Corporation would have the tolls maintained, and the proceeds equitably divided between the Municipalities of Calcutta and Howrah for purposes of improvement. The Chamber of Commerce maintained their opposition of 1871, and urged that the terminal charges should be abolished before the local tolls are interfered with. In view of these differences of opinion Sir Rivers Thompson decided to remit the terminal charge on wheat from 1st April, 1887, leaving the other questions for settlement when the debt of the bridge should be actually extinguished. With this view His Honour, the present Lieutenant-Governor of Bengal, recently appointed a representative Committee to consider the whole matter. Of that Committee my hon. friend, Mr. Reynolds, as Chairman of the Port Commissioners, was President; the Chamber of Commerce were represented by the Hon. Mr. Steel, their Chairman, and the Calcutta Trades' Association by their Master, Mr. Hallett; the East Indian Railway were represented by their Agent, Colonel Campbell, the Municipalities of Calcutta and Howrah by their Chairmen, and there were official members to represent the Government of Bengal and the Accounts Department. In view of the nature of the constitution of the Committee, and, as I will show, of their unanimity on the main question before them, I think the Council may safely adopt their recommendations, and recognise that the differences of opinion which had existed have been reconciled. The report of the Committee will be circulated to the Council. I may say that they were unanimous in recommending, first that the local tolls should be abolished, and secondly that some terminal charges should be retained. The terminal charges recommended for remission are those on rice and grain, pulses of all sorts, seeds of all sorts, and salt. This will represent a relief to trade of about Rs. 1,60,000 in addition to about Rs. 60,000, the amount of the charge already remitted on wheat. The retention of the charge on certain articles with the interest on the Reserve Fund, the rent of bridge lands, and the earnings of the tug steamer, will

revenue of the bridge was to be a terminal charge upon goods which enter or leave the Howrah Railway station by the East Indian Railway, whether they cross the bridge or not. The local tolls, that is the tolls on the persons and goods actually crossing the bridge, were to be a sort of supplementary source of revenue, which it was hoped would be ultimately abandoned. The mercantile community, the Port Commissioners, and their representatives in the Council, strongly dissented from this proposal. They urged that to make goods which did not use the bridge pay for it was wholly indefensible in principle, and that the proper people to pay for the bridge were those who made use of it. I need not enter into any details regarding the arguments used on both sides, because Sir George Campbell, who was then President of the Council, brought the question to a very plain issue. He pointed out that it was not a question between different sources of revenue for the bridge, but between accepting the terminal charges and doing without the bridge altogether, inasmuch as the Government of India had insisted on having collateral security for their loan before they would consent to give it. The principle of the levy of the terminal charges was accordingly adopted by a majority of the Council. Sir George Campbell, however, made a concession to the opposition which had been raised. He changed what I have called the basis of the revenue of the bridge, from the terminal charges to the local tolls. Accordingly, section 3 was made to prescribe the levy of local tolls, while section 4 made the levy of terminal charges discretionary, and in this form the Bill passed the Council. Since the bridge was constructed until recently the terminal charges have been levied, except that on coal which was remitted in 1877. Only two years ago, however, when it was seen that the period was at hand when, under section 22, it would be necessary to revise the revenue so as to bring it down to the actual expenditure to be incurred, several proposals were brought forward. The Port Commissioners, abandoning the view they had expressed in 1871, proposed abolition of local tolls. The Agent of the East Indian Railway, who might have been expected to prefer the removal of the terminal charges, first supported this view, and reported to his Board in London, and they agreed with him, that the toll-bar by which the local tolls are collected is so great a source of vexation and irritation to the public, that he would wish to see those tolls abolished. At the same time he proposed that the terminal charge on wheat

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Wednesday, the 25th April, 1888, at 11-30 A.M.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. Sir Henry Harrison, Kt.
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.
The Hon. H. Pratt.

HOWRAH BRIDGE ACT, IX OF 1871, AMENDMENT BILL.

The Hon. Mr. Macaulay moved for leave to introduce a Bill to amend Act IX of 1871 (an Act for the construction of a bridge across the river Hooghly between Howrah and Calcutta).

He said:—In order to make the object of the motion perfectly clear to the Council, it will be desirable that I should, with their permission, refer briefly to the history of the discussions and proceedings connected with the construction and administration of the bridge. When the Act, which it is now proposed to amend, was before the Council in 1871, a great divergence of opinion was manifested as to the sources from which the revenue which was to provide for the maintenance of the bridge, the payment of interest on the loan from Government, the extinction of debt, and the creation of a Reserve Fund, should be derived. The original scheme of the Bill was that what I may call the basis of the

ct of the... assembled f... of the A... ne should be maintained.

The Hon. Sir Henry Harrison said:—This is a matter of no practical ...ance. There are scarcely any prosecutions in such cases, but the prin-

The Motion was put to the vote and negatived.

The Hon. Babu Kali Nath Mitter, by leave, withdrew the motion of which he had given notice, that section 249 be omitted.

The Hon. Babu Kali Nath Mitter moved that, for section 250, the following be substituted:—

"If the Commissioners fail to pass orders within fourteen days as required by section two hundred and forty-seven, their consent shall be presumed."

He said:—This motion stands precisely on the same footing as in the case of the building regulations.

The Hon. Sir Henry Harrison said:—This provision is of much less importance in the matter of huts than it is in regard to houses. The present law prescribes a period of 14 days, and if within that time the building is not disallowed, consent is presumed. It is somewhat inconvenient to admit that presumption, but as the principle has been accepted in regard to houses, I must accept it in the case of huts.

The Motion was put to the vote and carried.

The consideration of the further clauses of the Bill was postponed Till the next sitting of the Council.

The Council was adjourned to Wednesday, the 25th April, 1888, at 11-30 A. M.

Calcutta;
The 7th May, 1888.

WILLIAM GRAHAM,
For Assistant Secretary to the Govt. of Bengal,
Legislative Dept.

[*Dr. Gooroo Dass Banerjee.*]

The HON. DR. GOOROO DASS BANERJEE'S motion that, in line 11 of the first paragraph of section 247, the word "fourteen" be substituted for "thirty" being put, the Council divided :—

Ayes 7.	*Noes* 6.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
The Hon. H. J. Reynolds.	The Hon. T. T. Allen.
The Hon. the Advocate-General.	The Hon. C. P. L. Macaulay.
His Honour the President.	

So the Motion was carried.

The HON. DR. GOOROO DASS BANERJEE'S motion that clause (*d*) of section 247 be omitted, was put to the vote and negatived.

The HON. DR. GOOROO DASS BANERJEE'S motion that in clause (*d*) of section 247, the word "ten" be substituted for "thirty," was put to the vote and negatived.

The HON. DR. GOOROO DASS BANERJEE moved that, in lines 1 and 2 of section 249, the words "in addition to or" be omitted.

He said :—This point has already been considered in reference to the construction of pucca houses. The only additional argument, which can be brought forward in reference to the unauthorised construction of huts, is the poverty of the owners of these huts. It is enough that the power of demolition is exercised : we do not require a prosecution in addition. I am quite aware that I have to meet the powerful opposition of the learned Advocate-General, who remarked that on principle when the provisions of a law have been infringed a penalty is incurred, and the offender should be liable to punishment. But these are not offences against any moral law, or any law for the protection of person or property ; they are merely offences against certain municipal regulations ; and though on strict principle the offenders may have become guilty of an offence, there is no reason why they should be prosecuted in addition to the exercise of the other power of demolition which secures the object in view.

[*Dr. Gooroo Dass Banerjee.*]

ıd I therefore asked him to be good enough to point out to me the provision which he referred; and it appears that the section to which my hon. friend luded does not refer to the construction of huts, but of latrines. Section 236 the Mofussil Municipal Act provides that no latrine shall be constructed ithin fifty feet of a tank, and section 238 regulates the position of latrines in gard to holdings; so that these two sections do not bear the construction which as been put upon them, and upon which my hon. friend based his argument.

The Hon. Babu Kali Nath Mitter's motions that new sections (given bove) be substituted for sections 247 and 248 of the Bill being put, the Council ıvided:—

Ayes 2.	*Noes* 10.
The Hon. Dr Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Babu Kali Nath Mitter.	The Hon. C. H. Moore.
	The Hon. Dr. Mahendra Lal Sircar.
	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon Sir Henry Harrison.
	The Hon T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.

So the Motions were negatived.

The Hon. Dr. Gooroo Dass Banerjee's motion that, in the first paragraph of section 247, the words "such form shall require a ground plan of the at drawn to the scale of eight feet to the inch, and such other details as the ommissioners may prescribe" be omitted, being put, the Council divided:—

Ayes 5	*Noes* 8.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
The Hon. C. P. L. Macaulay.	The Hon. Sir Alfred Croft.
His Honour the President.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.

So the Motion was negatived.

tenant to say how much land he wishes to take. That being so, the section will practically remain a dead letter. But if the law is framed in the manner I have suggested, it will prevent owners of land from converting their lands into bustees without submitting a plan of the way in which the bustee is to be laid out and obtaining the sanction of the Commissioners to the plan. Such a provision would effect the object in view, but the object with which section 252 has been framed must ultimately fail. On this point the memorial which has been presented to your Honour says:—

"The regulations relating to the erection of huts are cumbrous and unsuitable to the circumstances of the people, who will often be prevented from erecting huts, though at the same time they may be paying rent in respect of the land which has been let out to them, and upon which the huts are proposed to be built. The provision which makes it obligatory upon owners of bustee land to pay the rates leviable from their tenants, and then to realise them, is a proceeding which will entail hardship and loss upon owners, and will at the same time relieve municipal employés from the performance of their legitimate duties. Further, under section 263 owners will be required to set apart as much as two-thirds of bustee lands for roads, &c., for purposes of bustee improvement. The section would really amount to confiscation of private property, and your Honour's memorialists would beg to record their earnest protest against it."

If this section is carried out to the extent to which it is proposed to do, owners of bustee land will have to pay in rates and taxes nearly the same amount which they will realise as rent, because they will get no rent for two-thirds of the land, but they will notwithstanding have to pay rates and taxes upon it. They will be considered to be the occupiers of all lands left vacant for sanitary purposes: they will be able to realise rent on only one-third of the land, and will have to pay 23 per cent. in rates at the maximum. Therefore it is very necessary that these sections should be carefully considered. I submit that the powers conferred by the existing law are ample for all purposes. If a bustee is not properly constructed, you can have it medically examined, and then compel the owner to do what is required; therefore you have plenary powers at present, and I submit that the effect of these sections of the Bill will be only to harass the ryots instead of putting such pressure upon the owners of land as is desirable.

The HON. DR. GOOROO DASS BANERJEE said in reply:—My hon. friend, Mr. Allen, was pleased to observe that under the existing law in the Suburbs no hut can be erected within fifty feet of a tank. I was not aware of any such law,

unlikely, but it is an objection which has been taken, and I shall be glad have it removed if possible. In regard to the space required between ta and huts, we have just been told by my hon. friend, Mr. Allen, that the in the Suburbs requires a space of fifty feet; that I think is quite suffici justification for the space of thirty feet required by the Bill.

The Hon. Babu Kali Nath Mitter said in reply:—The hon. member charge of the Bill has told us that these sections have been framed with express desire of compelling owners of bustee lands to submit standard pl and so forth. But that is what he has absolutely failed to do. forgets how bustee lands are laid out. For instance, a man has 3 bigha land; a person wants to rent 3 cottahs of that land for a certain period; rent is fixed and the land is marked out and given to him; anot person takes 7 cottahs in the same way, and so on. The only way which the owner of the land would be touched is by the framing bye-laws expressly declaring that the owner of any land who wishes to it out in small parcels to different persons must in the first instance subm plan as to the sites to be built upon, the roads and open spaces to be left, so on, and must obtain the sanction of the Commissioners to such land. provision of that sort were introduced, it would have a very good effect. would prevent the owner from letting out small parcels of land to differ individuals at a monthly rent for the purpose of building huts upon it as t think proper. My hon. friend asks why I do not introduce an amendm that effect. I have repeatedly pointed out to him that if his object is control the owners of bustee lands, this is the only way in which it can done. Section 252 of the Bill, to which I have been referred by my l friend, authorises the Commissioners to call upon the owners of a bustee prepare and submit a plan showing the manner in which the bustee sho be laid out, and this plan, when approved by the Commissioners, shall be ta as the standard plan of the bustee. But the provisions of this section be evaded by the owner saying I do not want to build upon the land; I h simply let it out. The section would be unassailable if the owner of the l wishes to build huts upon it. But the fact is not so: the huts are built the tenants, and not by the owner of the land. The owner has nothing to with the building sites; he simply lets out the land, and it is for c

Road, when the filth of the bustee has been thrown into the road for removal in the morning, that the wonder is, not that there has been disease in Calcutta, but that any person in that neighbourhood can live at all, and this is called an improved bustee; but the sights that are to be seen of a morning in the neighbourhood of bustees are enough to make any person sick. Therefore, I consider that it is necessary to make some provisions for the proper laying out of bustees, and I agreed to these provisions as imposing the least restrictions compatible with the health and safety of the town. The Hon. Member thinks that these poor people will not be able to get plans made for them, but in saying so, he forgets the spread of education, which will enable them easily to get applications written, and plans made at very little cost.

HIS HONOUR THE PRESIDENT said:—It is one of the points most frequently taken exception to, that the people who live in these huts build them, and not the owners of the bustee land. The hon. member in charge of the Bill has shown very clearly that the object is to make the owners of bustee land take an interest in the laying out of their bustees beforehand. Good; but the law as it stands at present is not that the owner of the bustee land, but the person who wants to build a hut, has to submit a plan; that is the real subject of complaint. It seems the most desirable thing in the world that landlords should be compelled to submit plans carefully drawn to scale, showing how they wish to lay out their lands. But it seems rather hard that a poor man, who builds his hut not with the aid of a proper contractor, but with ordinary hired labour, should be required to submit a plan. There is something in that objection, but I daresay that what is required of him is a mere rough plan which cannot cost him very much to get prepared. The other points to which exception is taken indirectly are in connection with the amount of space between a hut and a tank and between lines of huts. Without venturing to say what the present section does mean, I would concur with those who for the sake of sanitation would impose a certain amount of inconvenience on those who build in bustees. The point on which stress is practically laid in the public memorial is that under the general scheme for bustee building provided in the Bill, two-thirds of the land in a bustee will lie unoccupied; and the Commissioners may practically refuse to approve of any plan that does not leave two-thirds of the land for roads and open spaces. This, I think, is very

the object of this part of the Bill is simply to make some improvement feasible; and therefore we compel the owners to interest themselves in laying out their bustee, and to submit a plan of the whole bustee, on which the site of every hut shall be marked, and this plan when approved by the Commissioners shall be taken as the standard plan of the bustee. It is a radical measure intended to deal with a radical disease, and I cannot see how anything short of that will deal sufficiently with the evil. As regards isolated objections, I quite admit that the Suburbs are so honeycombed with tanks that people have been accustomed hitherto to build their huts within even three feet of a tank, but this is considered by all sanitary authorities to be the worst of all insanitary evils. Tanks should, as far as possible, be obliterated, but it will take a long time to do so, and therefore we have provided a space of 30 feet as the minimum distance from a tank. As existing huts disappear or tanks are filled up there will be improvement; there may be some harshness in fixing that limit, but it appears to me to be necessary. For these reasons I am emboldened to ask the Council to adopt the principle on which the Bill proceeds.

The Hon. Mr. Allen said:—In the progress of these sections through the Select Committee, I particularly protested against all exaggerated notions of what is called sanitary science being brought into operation in Calcutta or the Suburbs without regard to all the surrounding circumstances. My whole contention was against the importation of such, and I certainly felt that in agreeing to the provisions which have been embodied in this Bill, I was acting with the least hardship to the people that was possible in a law of this kind. The Hon. Member on my right, who has moved an amendment as to the distance at which a hut might be allowed from a tank, entirely forgets that the law in the Suburbs at present provides a minimum distance of fifty feet from a tank. The Hon. Member declares stoutly against the hardship of poor people not being allowed to put up a shanty according to their own convenience; but he forgets that the interests of the whole of Calcutta are too important to be sacrificed to the convenience of poor people. One of the greatest evils which has hitherto existed is the facility which has been given to these poor people to put up their shanties in the best parts of the town. There is one bustee at the present moment to the south of Theatre Road which is considered to be an improved or reformed bustee, and I have seen such sights along that Theatre

sanction is obtained to erect a hut; and they must in the meantime occupy some other land for which they have to pay rent. This will be a hardship. I have, therefore, reduced the period from 30 to 14 days. I have also to move that clause (*d*) of section 247 be omitted. That clause provides that a hut shall not be erected within 30 feet of a tank. It is well known that in the suburban area which will be amalgamated with Calcutta, tanks are situated so close to one another that there will be in many cases a difficulty to leave a clear space of 30 feet between a hut and a tank. With every regard for sanitation, we must have regard to the existing state of things. If it is thought undesirable that a hut should be built on the margin of a tank, in that case I will move that 10 feet be substituted for 30 feet. Practically huts are built much closer than that; and if we have a clear space of 10 feet from the edge of a tank to the edge of the hut, it would for all practical purposes be sufficient.

The HON. SIR HENRY HARRISON said:—The question of bustees has for a long time embarrassed the town of Calcutta. These new sections have been drafted with a view to give practical effect to what has long since been decided upon as the proper course to adopt. It has long since been decided that the present custom of building huts one jumbled up with the other is utterly wrong. Till a few years ago it was found impossible to do anything with them; but during the past few years we have had narrow roads made to enable conservancy carts to pass through. But in the condition of the huts there has been very little improvement. Section 277 of the present Act provides that the Commissioners "may require a free passage or way in front of and between every two lines (of huts) of such width as they may think proper for ventilation and to facilitate scavenging." Attached to several of the mills around Calcutta you will find excellent bustees for the workmen built under the supervision of intelligent managers, especially one which I recently went over built under the supervision of Mr Yule at Garden Reach, and there can be no comparison of their immense superiority to the Calcutta bustees. The difficulty is how to bring a proper system into operation. A project comes in the shape of an application for the building of a single hut, and you have to deal with it without any means of working it into a proper system. The officers of the Corporation urge that it is quite impossible to work out any system from such separate proposals, and

purpose, and the owners of bustee land will have to pay in rates and taxes the whole of the rent which they derive from the bustee, they will not be able to build upon more than one-third of the land. As regards section 248, it provides for the submission of plans which these persons will be unable to give. Instead of that, my amendment proposes that they shall give notice and conform to the rules and regulations framed by the Commissioners. If they build without notice, the huts may be pulled down. My amendment on section 248 runs thus, that for section 248, the following be substituted:—

"If any hut or shed be built, re-built, or added to without giving to the Commissioners such notice as is required by the last preceding section, or otherwise than as required by the Commissioners, the Commissioners may give notice to the owner or occupier thereof by affixing a notice to some conspicuous part of such hut or shed, to take down and remove the same within one month, or to effect such alterations as they may deem necessary; and it shall be lawful for the Commissioners, if they shall think fit so to do, to cause the same to be taken down and removed, and the expense incurred thereby shall be paid by the said owner or occupier thereof, and shall be recoverable as hereinafter provided."

And I propose to omit section 249, which provides that in addition to the demolition of the hut a prosecution may be instituted.

The Hon. Dr. Gooroo Dass Banerjee moved that, in the first paragraph of section 247, the words "such form shall require a ground plan of the hut drawn to the scale of eight feet to the inch, and such other details as the Commissioners may prescribe" be omitted.

He said:—This is a much more restricted amendment than any of those which have just been moved by my hon. friend. My object is to have section 247 so framed as to prevent poor people from being placed in any difficulty. It will very often be very difficult for them to procure the services of a competent surveyor. I also move that, in line 11 of the first paragraph of section 247, for the word "thirty" the word "fourteen" be substituted. Under the existing law 14 days is the time within which the Commissioners are to state their approval or disapproval in the case of a pucca building; and if that time has hitherto been sufficient for a pucca building, it ought to be considered sufficient in the case of huts. People have to take a lease of the land before they can submit an application to the Commissioners for permission to erect a hut; the rent will begin to run, and yet they will not have the benefit of the lease until

He said:—If the Commissioners call for further information, and no information is given, then the previous notice would be of no value at all.

The HON. BABU KALI NATH MITTER moved that, for section 247, the following be substituted:—

"It shall not be lawful for any person to erect a hut or shed, or any range or block of huts or sheds, or to add to any hut or shed, or to any range or block already existing at the commencement of this Act without thirty days' previous notice to the Commissioners; and the Commissioners may, within thirty days of the receipt of such notice by them, require, in the case of a single hut or shed, that it be built in the manner approved of by them; and, in the case of a range or block of huts or sheds, that they be built so that they may stand in regular line with a free passage or way in front of and between any two lines of such width as they may think proper for ventilation, and to facilitate scavenging, and with such number of privies and with such means of drainage as to them may seem necessary, and of such a level as will admit of such drainage, and with a plinth at least two feet above the level of the nearest public street:

Provided that no hut or shed shall be built within twenty feet of a tank without the leave of the Commissioners."

He said:—I should very much like to shorten the discussion, because the arguments will be very much the same in all these cases; therefore it will save the time of the Council if I make one speech for all. My object is that the sections of this chapter should be left in the same position as they were when the Bill was before the Council on the last occasion. One discussion can be had from this section up to section 249 almost on the lines on which they have already proceeded. When we come to the standard plans, &c., a separate discussion will be necessary. Many of these huts do not cost more than from Rs. 40 to Rs. 50 to build, and to expect the owners of such huts to submit plans will put them to an expense which they cannot afford; it will besides be very difficult for these persons to submit a plan containing all the information required. My object is to make the procedure as simple as possible. In respect to a single hut or shed, the information necessary is of a very limited character. As regards a block or range of huts, a little more information will be needed. Under the existing law a lane or passage is left between every two lines of hut; but it, as the Select Committee consider to be the meaning of the existing law, and, as has been provided in the Bill, a passage of sufficient width is to be left after each line of huts, a great deal of the bustee land will be taken up for the

the whole question as to the delay the Commissioners may make as to passin orders in regard to the site. If the Commissioners do not pass the site withi thirty days, the Bill provides a small penalty on them. But if you cut ou section 244, you leave no penalty as to the site.

The Hon. Babu Kali Nath Mitter said in reply:—My idea as to this con pensation is that it will never work, and I think it is very objectionable The Bill authorises the Commissioners to call for plans in respect of building and they can take proper care with regard to their own officers.

The Hon. Dr. Gooroo Dass Banerjee moved that, in the first paragraph c section 244, for the words "they shall pay to the person intending to buil compensation for such delay at the rate of Re. 1 per diem for every day i excess of thirty days" the words "their approval shall be presumed" b substituted.

He said:—My amendment is practically identical with that of my hon friend. I think we may have both the sections providing against delay, a regards approval of the site, and also a section providing for presumption o assent in regard to the building.

The Hon. Babu Kali Nath Mitter's amendment was put to the vote an carried.

The Hon. Dr. Gooroo Dass Banerjee's motion was by leave, with drawn.

The Hon. Dr. Gooroo Dass Banerjee also, by leave, withdrew the followin motions of which notice had been given:—That, in the event of amendmen No. (17) not being carried, in line 8 of the first paragraph of section 244, fo the word and figure 'Re 1' 'Rs. 5' be substituted; that in line 2 of the provis of section 244, for the words and figures "Rs. 2, Rs. 5, Rs. 10, or Rs. 20," th words and figures "Rs. 10, Rs. 15, Rs. 20 or Rs. 25," respectively, be sub stituted.

The Hon. Sir Henry Harrison, by leave, withdrew the following amend of which he had given notice:—

That, for the second paragraph of section 237, the following be sub stituted:—

"If further information is called for, no steps shall be taken to build the house until orders have been passed upon receipt of such information."

rejected. The section comprises three cases. Section 235 respecting sites, section 237 regarding buildings, and section 238 which refers to the demolition of buildings. With regard to the site, the view of the Select Committee was upheld that assent to a site is necessary, but as your Honour remarked, what applies to a site might not apply to a building. That is a distinction which may be drawn. The English law, the existing law here, and the Bombay law make the same provision in all cases, and my proposal in the Select Committee was made accordingly; but the Select Committee saw the danger, and introduced the very strict rule that as far as the site is concerned approval must be obtained. But as regards the building, I think there will be less danger. In cases in which no site is in question, or where the site has been sanctioned, and the objection is only as to the details of the building, there will be no harm done. The only question is whether any compensation is necessary with reference to the site. If we accept the remedy as regards the building, there will be no remedy as regards the site. If we say that consent should be assumed as regards the building, we shall have no remedy as to the site.

The HON. BABU KALI NATH MITTER said in reply:—As regards the site, that has been already disposed of. The section provides that until the site is sanctioned in writing, the house shall not be constructed. The reference in my amendment can only apply to buildings, because as regards the site that has been discussed and settled. It will not be necessary to refer to section 235 in this section because that has already been passed.

HIS HONOUR THE PRESIDENT said:—We have already passed the last paragraph of section 235, that until the approval of the site in writing, the house shall not be constructed. The next step is that when the site is settled the Commissioners ask for plans and details of the house. Section 244, providing compensation if the Commissioners fail to pass orders, applies to both the site and the building. The Hon. Dr. Gooroo Dass Banerjee's amendment applies only to the building. I think when you have secured the requirements as to the site, the question in regard to the building is one of very much less importance; and if the Commissioners fail to pass orders within thirty days, the assumption should be against them, and the man should be allowed to proceed with his building. I think that not altogether unreasonable. But the hon. member in charge of the Bill thinks the wording of the section as it stands leaves open

The Hon. Babu Kali Nath Mitter moved that, for section 244, t following be substituted:—

"If the Commissioners fail to pass orders within thirty days, as required by section t hundred and thirty-eight, the person giving such notice may, notwithstanding anythi hereinbefore contained, proceed to build or rebuild the house therein referred to accordi to such plan."

He said:—Here my hon. friend's favourite legislation fails him. In t Bombay Bill the provision is precisely the same as in this amendment of mi The section there is—

"If within thirty days after receipt of any notice under section 335 or 340, or of t plan, section, description or further information, if any, called for under section 336, 338 341 as the case may be, the Commissioner fails to intimate in writing to the person w has given the said notice, his disapproval of the building which the said person proposes erect, or of the work which he proposes to execute;

or if, within the said period, the Commissioner signifies in writing to the said pers his approval of the said building or work;

the said person may at any time within one year from the date of the delivery of t notice to the Commissioner, proceed with the said building or work in accordance with intention as described in the notice or in any of the documents aforesaid, but not so as contravene any of the provisions of this Act or any bye-law made under this Act at the ti in force."

An individual who wants to build complies with everything which t law requires, and if then the Commissioners fail to give sanction, under t present Bill the Commissioners must pay compensation. This is no satisf tion to the individual. He wants to build, and if the Commissioners do n give sanction within the time prescribed, he should be entitled to build. Th is the law here and in the Bombay Bill, and why should there be any dep ture from that principle? My hon friend said in reference to another amendme that it was a matter of great importance as to whether a person should bu or not. A man gives notice that he wants to build, and if the Commissione do not do their duty they are to blame, but the man should not suffer. submit that the man should be entitled to build if within the time the Co missioners give him no answer.

The Hon. Sir Henry Harrison said:—In voting on this amendment so care is necessary, because a part of it covers ground which has already be

Commissioners should have an alternative procedure. This is a power which will be exercised very rarely, but in some cases it ought to be exercised, though it is of no great practical importance.

The HON. THE ADVOCATE-GENERAL said:—I also think the principle wrong for which the hon. mover of this amendment contends. If a man constructs a building illegally, the proper remedy is to pull it down, and to prosecute the offender. I think both the remedies should exist, and not one substituted for the other.

HIS HONOUR THE PRESIDENT said:—The offence is the building of a house without sending a ground plan and giving the notice required, and the punishment is a fine of Rs. 100 with a further fine of Rs. 20 for every day during which the offence is continued after conviction. Which part of the operation constitutes the offence? Is the penalty for every day during which he does not send in the building plan or during which he goes on with the building?

The HON. SIR HENRY HARRISON replied:—Under the existing law the provision regarding the erection of huts is exactly the same. The Commissioners may pull down the hut, and the person who erects it contrary to the law is liable to a daily fine until the hut is removed. In the present case the penalty is a fine for every day the building is kept on.

The Motion being put, the Council divided:—

Ayes 3.	*Noes* 10.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER, by leave, withdrew the motion, of which notice had been given, for the omission of section 243.

some cases in which special *mala fides* are shown, and in such cases the man should be prosecuted. It is quite in accordance with the spirit of the existing Act, and has been acted upon in at least half a dozen cases.

His Honour the President said:—The last part of the section is very important; you prosecute him and compel him to demolish the building at his own expense.

The Hon. Babu Kali Nath Mitter said in reply:—The effect of the section is very different from what the hon. member in charge of the Bill describes it to be. I am not aware that under the existing law the power is precisely the same. It does seem to me to be a very harsh proceeding.

The Motion being put, the Council divided:—

Ayes 3.	*Noes* 10.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The Hon. Dr. Gooroo Dass Banerjee moved that, in lines 1 and 2 of section 242, the words "in addition to or" be omitted.

He said:—Section 242 prescribes a penalty for building contrary to the orders of the Commissioners in addition to the demolition of the building under the preceding section. It is clear that the Commissioners do not require both these powers. It is not necessary to demolish a building, and at the same time to prosecute the person for contravening the orders of the Commissioners. If the object of the prohibition has been attained, there should be no further punishment. The object will be fully gained, if we leave out the words "in addition to or."

The Hon. Sir Henry Harrison said:—I have no objection to the motion, except that it is wrong in principle. I think there may be cases in which the

away with. Because just as there may be reason for the Municipality being taken advantage of by the action of their own officers, there is greater reason for the rate-payers being harassed by the action of these people. It becomes the Corporation to reform their own house before imposing building regulations for improving the houses of the ratepayers. I submit that what has been stated is no reason why we should have such a clause to the prejudice of the people. If its omission operates to the prejudice of the Corporation, the Corporation can take care of itself.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON moved that, for the first eight lines of section 237, the following be substituted:—

"On receipt of such notice, the Commissioners shall, within thirty days, by a written order, either sanction the building of the new house, or for any one or more of the reasons set forth at the next succeeding section, disallow it, or call for further information on all or any of the following details."

He said:—This is not intended to alter the sense. The alteration was suggested by the Secretary. Section 237 is identical with a certain portion of section 235, and the Secretary asks me to move this amendment, so that the wording of section 237 may be in accordance with the wording of section 235.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that, in the last paragraph of section 237, for the words "competent surveyor" the words "competent builder or surveyor" be substituted.

He said:—This is a mere verbal alteration.

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 242 be omitted.

He said:—The Commissioners have the power of demolition, and that is sufficient. To prosecute a man after demolishing his house is a heavier punishment than is necessary. The demolition of the building would be at the man's expense, and it is not necessary that the man should be further punished.

The HON. SIR HENRY HARRISON said:—Generally the Commissioners exercise the ordinary power of rectifying what has been done wrong; but there are

The Hon. Sir Henry Harrison said:—This is a matter of some difficulty, and I am free to say that the proposal of the Hon. Member is the identical one which I put before the Select Committee in the first instance. It is the general rule that unless disapproval is signified, approval is assumed, and that has been the rule hitherto in Calcutta. At the same time the Select Committee purposely put in the provision for reasons they considered sufficient. They considered it absolutely necessary that the builder should get approval. In such matters there is great room for manœuvring. In general a person who proposes to build on a site to which there can be no objection will send in the papers in the usual way and orders will easily be passed. But suppose he does not wish orders to be passed within thirty days, no doubt there are various means by which that can be manipulated; for instance, by sending in the papers a day or two before the Poojah vacation, and arranging that it should not be laid before the superior officers for that day or two, or by arranging with a subordinate that it shall lie in his desk, and be overlooked for a time, or last of all, by somehow evading receipt of the disapproval, because the receipt of the order of disapproval must be proved; consequently it is of the highest possible importance that approval should be obtained. If you make an order of approval necessary, it is more likely to be pushed on. On these grounds it seemed desirable that approval should be insisted on before beginning to build. There may be only two or three out of a hundred cases in which the proposal to build will, by no possibility, have sanction; and though the omission to pass orders within the prescribed time may happen in only a small percentage of cases, it is precisely in that small percentage of cases that the danger will happen. For these reasons the Select Committee thought it better to put in this provision.

The Hon. Dr. Gooroo Dass Banerjee said in reply:—The hon. member in charge of the Bill has been pleased to point out that the necessity for inserting this paragraph of section 235 arises from the fact that the applicant may by manœuvring prevent the Municipality from taking up the matter within thirty days. That amounts almost to a confession, coming as it does from the Chairman of the Corporation, that the subordinate officers of the Municipality are amenable to such improper influences; if so, there is all the more reason why not only this paragraph of this section, but the whole of the building regulations should be done

foreing their hands, then the Commissioners may be compelled to take up the land and construct the street long before it is wanted, simply on account of the pressure put if the proposal to build is refused. On the other hand, I quite admit the hardship to the individual if he has no other place to build upon; but it may happen that although the line of street has been marked, there may be so much delay that the Commissioners may not be prepared to go on with the street within the year. I shall, however, raise no objection to the amendment if the Council think it a necessary act of justice.

The HON. THE ADVOCATE-GENERAL said:—There ought to be no power to undertake the making of a street unless there is a reasonable prospect of making the street within a reasonable time. Here the demand is for compensation if you do not allow the man to build. I think the proposed provision is a reasonable one.

The Motion being put, the Council divided:—

Ayes 8.	*Noes* 5.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
The Hon. C. P. L. Macaulay.	The Hon. T. T. Allen.
The Hon. H. J. Reynolds.	
The Hon. the Advocate-General.	
His Honour the President.	

So the Motion was carried.

The HON. DR. GOOROO DASS BANERJEE moved that the last paragraph of section 235 be omitted.

He said:—In the earlier part of this section thirty days is the period within which the Commissioners must signify their approval or disapproval of the site, or pass any other order they may think fit. And thirty days is time enough for an efficient public body like the Calcutta Corporation to take proper action in the matter. But if the last paragraph of the section stands, it nullifies the operation of the first portion, and gives an unlimited time within which to pass orders. It is hardly fair to provide an indefinite prohibition.

street, not an actual street, they may disapprove the site. The Commissioners under section 208 are authorised from time to time to prepare plans of proposed public streets, and it may happen that the Commissioners may anticipate the work of years and propose plans which are not likely to be carried out in the course of one or two years, but may take 10 or 20 years to complete. They may disapprove a site for building purposes which they may find they will have shortly to acquire for a public street, and which will cost much more money to acquire if built upon. In the interests of the Municipality there may not be anything very inequitable if they do so. That is the Corporation's side of the question. But it is necessary also to examine the rate-payers' side of the question. Where land is acquired or is about to be acquired the rate-payer loses nothing, for he gets the value of the land, and he may buy other land to build upon. Where, however, the site is disapproved because it is likely to be taken up by some projected street, and it is not likely the projected street will become a reality until 10 or 20 years, it is hardly fair to deprive the owner of the legitimate use of the land without paying him compensation. Under the Land Acquisition Act, if the land is acquired, he will be entitled only to the value of the land: it does not provide any compensation for any interdict laid upon the owner prohibiting the use of the land until it is acquired. It is therefore, I submit, very necessary in the interests of the public to prescribe some limit of time within which the land should be acquired. My amendment allows a whole year's time to the Municipality. If they do not acquire the land within a year, then only will they have to pay compensation.

The Hon. Sir Henry Harrison said:—This is not an unreasonable proposal, and I cannot say I think it necessary strongly to oppose it. But there is some disadvantage from a public point of view; and the question for consideration is the balance of advantages and disadvantages. The disadvantage from the public point of view is that it puts a somewhat unfair pressure on the Commissioners to anticipate action which may be reasonable. Suppose the neighbourhood of some street running in a certain direction becomes a building neighbourhood, the Commissioners mark the continuation of the street as the line of the new projected street. This is quite evidently the line the street ought to follow as soon as buildings spring up in the neighbourhood. Suppose some one proposes to build on a portion of the line of that street, which may be done for the purpose of

[*Babu Kali Nath Mitter; Dr. Gooroo Dass Banerjee.*]

The Hon. Babu Kali Nath Mitter, by leave, withdrew the following motions of which notice had been given:—

(1). That section 240 be omitted.

(2). That for section 241 the following be substituted:—

"If any building or alteration, such as is referred to in section two hundred and thirty-six, be commenced without the notice and plan required by that section being sent to the Commissioners, or before the expiration of the thirty days, or at any levels different from those fixed by the Commissioners within the said thirty days, or in contravention of any lawful orders issued by the Commissioners under section two hundred and thirty-eight, the Commissioners may cause such work as has been done to be demolished or altered in such manner as they may think fit, and the expenses thereby incurred shall be paid by the person failing to comply with the requirements of the Act."

The Hon. Dr. Gooroo Dass Banerjee moved that, after the fourth paragraph of section 235, the following new proviso be inserted:—

"Provided that where any site is disapproved by reason of its falling wholly or in part within the lines of any projected public street, the owner of such site shall be entitled to reasonable compensation if the site or the portion thereof that falls within such lines be not acquired by the Commissioners in meeting under section two hundred and four of this Act within one year after the date of such disapproval."

He said:—Under the existing law the Commissioners have power to refuse sanction for a building if they disapprove the levels and foundation or it is otherwise contrary to the provisions of the Act; but they have no power to disapprove the site. Section 235 gives this additional power of disapproving of a site altogether for building purposes. Whether this large power should be given to the Commissioners or not is a question with which my present amendment has nothing to do. Conceding, however, that this power ought to be given, yet seeing that the exercise of it involves serious interference with private property, it seems desirable that the grounds of the exercise of this power should be narrowly examined, and that care should be taken to guard against any possible hardship or injustice in any case. Now referring to section 235, you will observe in lines 6 and 7 of paragraph 4 that amongst the grounds on which the Commissioners may disapprove any particular site is this, viz., the fact of the proposed site falling wholly or in part within the lines of any projected street. If the Commissioners find, on examining the plan, that the applicant proposes to build on land which falls within the line of any projected

would have been unfair to visit with punishment the purchasers of the building lots by refusing them permission to build: the person who should have been attacked was the man who sold his land in small building lots without making provision for the opening out of proper streets, and this could have been done under the existing law. I therefore submit that there will be no difficulty in working the provisions which I propose.

The motion to omit section 235 was put to the vote and negatived.

The motion to substitute the following, for section 236, was also put to the vote and negatived:—

"Before beginning to build any new house, or to rebuild or materially alter the structure of any house, the person intending so to do shall give to the Commissioners notice thereof in writing, and shall accompany such notice with a plan of the site and the proposed buildings drawn to the scale of not less than one inch to every eight feet, showing the following particulars:—

(*a*) the position, form and dimensions of the several parts of such building, and of every water-closet, privy, urinal, cesspool, well and other appurtenances;

(*b*) the width and level of the street, if any, in front, and of the street, if any, at the rear of such building, the level of the foundation, and the lowest floor of such building, and of any yard or ground belonging thereto;

(*c*) the drainage of such building and of the intended size, depth, and inclination of such drain."

The Hon. Babu Kali Nath Mitter's motion to omit section 237 was also put to the vote and negatived.

The Hon. Babu Kali Nath Mitter's motion to substitute the following, for section 238, was also put to the vote and negatived:—

"Within thirty days after receiving such notice as is mentioned in the last preceding section, the Commissioners shall see whether the proposed buildings are in accordance with such bye-laws as may be prescribed in this behalf. And if they are so shall signify their approval of the proposed buildings: and if they are not, they shall, within a like period, point out such modification as to them may seem desirable."

The Hon. Babu Kali Nath Mitter's motion to omit section 239 was also put to the vote and negatived.

private streets are properly worked, cases such as those of Rajah Bagan and Sukea's Bagan could never have happened. The parties opened out several streets before the buildings were erected, and if the owner was prosecuted for doing so without sanction, the mischief would have ended; but that was not done, and those narrow and irregular streets were allowed to be opened. Then applications came for building, and as under the existing law there was no power to refuse, the buildings were sanctioned. But had there been a power to frame bye-laws in regard to buildings, with power to the Commissioners to refuse sanction to buildings not in accordance with such bye-laws, the remedy would have been at once found. That is a complete answer to the challenge of my hon. friend. Then he said that if these sections are not passed, the difficulty will only be postponed. I submit not. The circumstances of the country have to be taken into consideration. The Health Officer to the Corporation is no doubt a very competent officer, but he has no experience of this country. He comes fresh from England with English notions, and he naturally wishes all the provisions of the English Statutes to be introduced here; but it seems to those who live here that the provisions of the model bye-laws in England are not suitable to the manners and customs of the people here. Therefore it will be best to leave the framing of bye-laws to the Commissioners, and as they will require the sanction of the Local Government, the objection of my hon. friend will be minimised. So far as I have been able to gather, the English provisions have reference to buildings falling within certain streets or projected streets or constructed over sewers. I again submit that if the matter is left in the way I propose it will serve the purpose, more specially if proper attention is paid to the provision referring to private streets, and a prosecution instituted for its infringement. Reference has been made to what was urged by the late Officiating Chairman regarding Rajah Bagan. That is precisely one of the cases to which I referred when I addressed the Council before. A man purchased a large tract of land and sold it in small lots after leaving out certain passages. The Commissioners took no exception to the opening out of those streets without sanction; the purchasers of the building lots then applied for permission to build, and there being no power of refusal, sanction was given. The buildings were raised; the streets or passages were narrow and tortuous, and necessarily the place was reduced to a very insanitary condition. It

propose this site. The Commissioners say, we do not think that a proper site. Having given no proper test of judging what is a proper site, it rests with the Commissioners to say what is or is not a proper site. I consider that such an extensive power which might be exercised arbitrarily should not be given. My hon. friend in charge of the Bill says, if you object to the provision in the Bill, draw a better one. It may be that another person may not be able to draw a better provision on the lines of the section; but I say that that is no argument at all. In section 238 special reasons are given which shall justify refusal in respect of a building; that it will be unsafe; that it encroaches upon municipal land, or that its construction contravenes some specified provision of this Act. Three special reasons are given upon which the Commissioners may refuse their approval of a building. Unless those who have thought about it are able to suggest some appropriate way of providing a test which will justify the Commissioners in disapproving of a proposed site, I shall not be able to give my assent to section 235. If the Commissioners say a site is not proper, the individual is completely without remedy.

The Hon. Sir Henry Harrison said in reply:—I should be glad to see a provision introduced such as my hon. and learned friend the Advocate-General suggests, but I think it will be very inconvenient to lay down any hard-and-fast rule. The tribunal which is to judge will be a most lenient one, and there will be infinitely more danger of too much leniency than over-stringency. First, the Engineer will approve, then it will come before the Chairman, and then it may be taken before the Town Council and the Commissioners in meeting; and these will be found to be the easiest tribunals possible. Whereas if the distance from a street is fixed at 10 or 20 feet, it may be found not to work at all. The object is to make it possible to get some street in, so that it may be a proper site with reference to such street and the adjacent buildings. The Commissioners will be bound to show that it is not a proper site with reference to some existing or projected street or to the adjacent buildings. Can we go further than that without leading to harshness and inconvenience?

The Hon. Babu Kali Nath Mitter said in reply:—My hon. friend has asked what alternative proposal I would make in order to have proper regulations on the subject. The answer is quite evident If the sections which were discussed on the last occasion regarding the laying out of new

other requirements of sanitation. My hon. friend has referred to the case of a person buying for building purposes a plot of 3 cottahs out of a piece of land 3 bighas in extent. That is just one of those instances of the idea which prevails in Calcutta that the interests of the community must be sacrificed to the convenience of the individual; that to avoid hardship to an individual the community must suffer; and it is extremely difficult to induce the people to understand that the individual should be placed under restrictions, having regard to the interests of the community in general. When a man is about to purchase a piece of land, he ought to bear in mind, in the first instance, that he should build upon it in a way that will enable houses in the neighbourhood to spring up in regular lines of streets. That is a most necessary discipline, and unless we are prepared to make people learn that the individual must so manage his own affairs that they shall be consistent with the well-being of those around him, we shall not have made any step in advance. Therefore, as regards the general principle of these sections, I submit that they are preferable to the provisions proposed by my hon. friend. He gives no control whatever over building sites and buildings except through bye-laws to be hereafter made by the Commissioners. Till such bye-laws are made, and when made if they are not as stringent as the provisions of this Bill, there will be no power to prevent the overcrowding of buildings without reference to the requirements of sanitation. The provisions he proposes lay down one hard-and-fast rule applying to the case of a small addition to a house and to a very large new building. The Bill makes a clear distinction between the two cases, and seems more convenient in this respect. There are one or two other matters to which I desire to refer, but they have reference more particularly to subsequent amendments on the list.

The HON. THE ADVOCATE-GENERAL said:—There is one matter which I think should be pointed out. The section provides that the position of the house must be given with reference to certain streets. It says that the Commissioners shall either signify their approval of the site, or for reasons recorded their disapproval thereof as not being a proper site with reference to the street shown in the plan. That leaves it entirely to the caprice of the Commissioners as to what is a proper site. I can understand a rule which states that a building must be so many feet from a street. A. says:—I

public street, but there is a projected public street in the locality in which new buildings are springing up, then the position of the site with reference to such street must be shown. If there is no public street either existing or projected, then the position with reference to an existing private street or projected private street must be given; and lastly, suppose no provision can be made for any such street, then for special reasons the Commissioners may accord sanction without reference to any street, public or private. The objection that it will lead to corruption and abuse of authority is an objection that may be taken to any Municipal Bill, but in framing a law we are bound to assume that the power will be exercised in a fair and reasonable manner, and there is moreover a special safeguard, inasmuch as the Executive are at every stage subject to the control of the Commissioners. Any person aggrieved can go to any Commissioner or to the ward Commissioner, and draw his attention to any proceeding of the Executive, and have the matter investigated by the General Committee or the Commissioners in meeting; and if anything unreasonable or harsh has been attempted, he can get it set aside. My hon. friend has argued as if these regulations are particularly harsh or at least stringent, and as if they might easily be relaxed without inconvenience. In Select Committee we were precisely of the opposite opinion. The Health Officer at every stage insisted that we were doing nothing; that the law would not be nearly sufficient; that we were leaving everything to the discretion of the Commissioners and to the bye-laws, and were not providing proper safeguards by legislative enactment. This was uniformly the burden of the position he took up before the Select Committee. We felt that what we were doing was the minimum; we were perfectly alive to the contention of my hon. friend that India was very different from England. We refused to introduce a number of provisions that are to be found in the Bombay Bill, although we were pressed by Dr. Simpson to insert them, because we felt that we had not sufficient knowledge of the circumstances of Indian life to justify the enactment of hard-and-fast rules of that kind. After all I am satisfied that in this Bill very little has been put in; we have put in the minimum of what seemed absolutely necessary; and unless this control over building sites is given, it will be impossible to prevent in future those evils which now exist, namely, the evil of persons building houses as they choose without reference to any regular street or to the

Bill have been specially drafted with a view to give the minimum of trouble. We avoid the hardship of going through the same forms in the case of an addition to an existing building, which may be only a godown or a coach-house, or stables, or some minor alteration. We do not make the question of site apply unless to a new house. In such cases the person has only to send in a very brief summary of what he proposes to do, in a printed form, to be prescribed by the Commissioners. Great value attaches to the use of a printed form. If people are allowed to send in the information according to their own ideas, they are most likely to put in things which are not wanted, and to leave out information which is essential; so we require that a printed form, to be supplied by the Commissioners free of charge, shall be used. Then a uniform scale is prescribed, because in that case you can file all these plans street by street, and can make out a complete plan of the whole street. These provisions require very little indeed; they comprise the information which is always required in ordinary cases. But if a new house is to be built, then the person must get sanction to the site, and the Commissioners may ask for information on a vast number of points copied from the Bombay Bill. But we have an alternative procedure. Applications for buildings of a simple kind can be passed without difficulty and in a short time; but if it is a large building of two or three stories which it is very desirable to watch and supervise properly, then a great deal more information is necessary. There is, however, nothing to prevent the builder sending all the requisite information at once—the plan of the site and the further information regarding the building in one and the same application, and of necessity there is nothing to prevent the whole being carried through in a fortnight without difficulty, because, though the Commissioners have a right to thirty days' time for the approval of the site and thirty days to give sanction for the building—not six months as the Hon. Member apprehends—if the proposed construction is put into the hands of a proper builder under circumstances which raise no difficulty, there is nothing to prevent the whole thing being passed in a week.

As regards the provisions relating to the site, they have been made as lenient as possible. All that is wanted is that the house shall not be built in such a way as to make it impossible to make it fit in with any proper street. If there is any existing public street leading to it, it must be shown. If there is no

most chaotic manner so as to render conservancy impossible, and therefore it became incumbent on me to devise some means of regulating their construction in future. After full consideration I thought the form of dealing with the subject which this Bill proposes the best, namely, to give the Corporation the fullest control over the sites in the first instance, inasmuch as it will be impossible to provide an adequate remedy afterwards except at an enormous cost. If we can devise any means of making the person who sells land in building lots responsible in respect of the proper laying out of streets, I would be entirely in accord with my hon. friend; but I can see no way to do it. Suppose it was proposed that no person shall be allowed to sell his land in building lots until he satisfies the Commissioners that he has made proper provision for the opening of streets and the like? That a person is not to be allowed to sell his land without stating the purpose to which the land is to be applied; that the sale is to be invalidated unless the object is declared, and unless the Corporation is satisfied that these evils will not occur, would that be tolerated? I see no other way of doing it. If the Hon. Member can draft a better procedure, he should do so. Either you must leave the evils uncured, or you must have some such provisions as those contained in the Bill. It is impossible to intervene between the vendor and the purchaser at an earlier stage. We cannot take action until the use to which the land will be put is declared. It is unfortunate, no doubt, that an innocent purchaser should be the person who suffers, but we cannot put in our oar until it comes to the point of some one saying, I want to build on that land.

Now let me describe the procedure, and ask the Council to say whether it is harsh or dilatory. My hon. friend's proposal is that the site should be indicated and certain details given in all cases, whether the building is to be an addition to an existing house, or a new house; and further he proposes that within thirty days after receiving the notice, the Commissioners are to see whether the proposed buildings are in accordance with the bye-laws. Is it not obvious that that procedure does not meet the difficulty? If the Commissioners do pass bye-laws, how will it be better for the person? Would the bye-laws not say that the mode of access to the house must be shown, and the way in which it would be a mode of access to other houses in the neighbourhood so as to form a continuous street? If the bye-laws shirk this, then they will be of no use at all. The sections in the

the question comes before the Council. The Select Committee gave their special attention to the question as to sites for building, because Dr. Simpson, the Health Officer of the Corporation, stated that the health of the town and the possibility of its conservancy were seriously jeopardised by the way in which houses are now built, so as to make straight and wide streets impossible: and two of the public bodies in the town also drew special attention to the question. The Calcutta Trades' Association writes:—

"*Section* 195. This section, which deals with the laying out of new streets, appears to be susceptible of improvement. It requires that the level and width of every new street shall be fixed or approved by the Commissioners, but it should also, the Committee consider, fix their minimum width, which should not, in the case of main streets, be less than 36 feet. As regards bustee lanes and back bustee lanes, their width should not be less than 12 and 9 feet, respectively, from eaves to eaves. It is in the opinion of the Committee, of the utmost importance, in view of the facts contained in Mr. H. J. S. Cotton's note on Raja Bagan Bustee, that the new Act should deal with this subject in a thorough manner. Mr. Cotton but represents the feelings of the public when he states that 'the superabundance of narrow lanes in the respectable inhabited portions of this city is an intolerable nuisance,' and the Committee of the Association are convinced that there will be no abatement of the nuisance until the Commissioners are vested with the necessary powers for dealing with it."

The Health Society similarly writes:—

"The insertion of four new sections is recommended after section 196 of the Bill While on this subject the Secretary would invite the special attention of His Honour's Government to the remarks made by the Health Officer to the Corporation, Dr. W. J. Simpson, at pages 24 to 27, both inclusive, of his Annual Report for the year 1886, on the need of building regulations in this city. It would also draw special attention to a valuable memorandum on Raja Bagan Bustee, which was drawn up by the late Officiating Chairman, Mr. H. J. S. Cotton, and to the Proceedings of the Fourth Meeting of the Special Committee apointed by the Corporation to consider the amended Bill. The Council would only add that they are in complete accord with the views of the late Officiating Chairman and of Dr. Simpson; and they would urge, for the reasons which appear in the documents referred to, that building regulations applicable to both houses and huts should be embodied in the new Act."

With these recommendations before us, together with the special remarks of Dr. Simpson, we did what reasonable men would do who are convinced by the force of the arguments urged upon them. One of the most serious evils in Calcutta is the way in which new suburbs spring up and houses are built in the

safeguard, first, of the Commissioners in meeting, deciding, and then the approva by the Local Government of the proposed bye-laws. Whereas if these regula tions are provided in the Act in the manner proposed, there will be grea difficulty in the way of persons building on their own land. I do not think the object of legislation should be to depreciate the value of land in Calcutta The value of land now is very high, and that means the prosperity of th town and a high assessment by the Commissioners. But if there is any doub whether sanction will be given to building on any particular land, the valu of land will decrease, and that is certainly not desirable. The policy of th sections in the Bill seems to be to punish persons who have purchased lands and not the person who has received the purchase-money. If, on the other hand, the hon. member in charge of the Bill had proposed sections to prevent persons selling land in such a way as to place the purchaser in the awkward position of being unable to utilise it for building purposes, I could understand it. I pointed this out in Select Committee repeatedly, but I was not able to convince the Committee that that was the right position to assume in respect of this matter.

The Hon. Sir Henry Harrison said:—This matter is one of considerable difficulty and importance, and I would ask the Council to give it their best attention, and not to start with any prejudiced idea that the sections in the Bill are unnecessarily embarrassing or harsh. I will first remind the Council that we have to consider the suitability of the procedure proposed in the Bill as compared with the alternative procedure now proposed. It is useless for the Hon. Member to refer to the law in Bombay or in England, unless he is ready to move its adoption. In Calcutta the procedure is for the Executive as representing the Commissioners to act in the first instance, but they are under the control of the Commissioners at every stage. In Bombay, the Commissioner, who is the executive officer, is not under the control of the Corporation, except in matters in which it is definitely prescribed in the law that he shall be so. But after allowing for this difference of system, I believe there is no substantial difference between the procedure in this Bill and that at Bombay. The question is, can the procedure in the Bill be improved without materially affecting its efficiency? If that can in any way be done, I shall be glad to adopt any such proposals. But we must not lose sight of the circumstances under which

in which a number of people exceeding twenty may be employed, or as a public resort, the means of ingress and egress; he has also to give a description of the materials of which the building is to be constructed, of the thickness of the walls and roof, and of the intended mode of drainage, the means of water-supply, and means of ventilation; and if the building is to adjoin or abut on a street, the intended means of access from such street. To satisfy the Commissioners as to all these particulars must take a long time. As to the materials, the man may get his lime and his sand and the officer might not approve of them; he will have to pay for them, and yet he cannot make use of them. All these things in my opinion are not necessary in order to exercise proper supervision over the building. I do not think the Commissioners have anything to do with the internal arrangements of the house. I think it will be sufficient if control is exercised as to the level and the drainage of the intersected house and its position with reference to any street, and that the privy and cesspool are in a suitable place. A person may be building a house for his own residence, but he might fall into difficulties and wish to let it out to others. It will therefore be impossible for him to say whether it is to be a dwelling for two or more families, and the like. Well, having obtained all this information, the Commissioners may disapprove of the building for any of the following reasons: that it will be unsafe; that it encroaches on or over municipal land; or that its construction contravenes some specified provision of the Act or some specified bye-law made under the Act; and then the building shall not be proceeded with till such modifications have been made as will satisfy the requirements of the Commissioners. In place of these several provisions, I have read to the Council the provisions I propose. The second section which I propose runs as follows:—

"Within thirty days after receiving such notice as is mentioned in the last preceding section, the Commissioners shall see whether the proposed buildings are in accordance with such bye-laws as may be prescribed in this behalf. And if they are so, shall signify their approval of the proposed buildings; and if they are not, they shall, within a like period, point out such modification as to them may seem desirable."

The advantage of what I propose will be this. The Commissioners in meeting have first to pass certain bye-laws, and before they can be operative they must have the sanction of the Local Government. There will be the

have the matter brought forward by a Commissioner. The two things are totally different to my mind. As I have said, in Bombay there are the two things which the Bill provides regarding the approval of building sites; and as regards new streets, if there is to be one, it must be metalled and channelled: if there is to be no street, the matter is to be placed before the Standing Committee, and with their consent approval may be given. That is very different from the power to be taken here, for section 135 provides that until the approval of the site is signified in writing, the house shall not be constructed so that I am quite correct in stating that in the case I have put the executive officers will be perfectly justified in refusing to grant permission. How then is the individual to utilise his land? Is he to wait till the whole of the 5 bighas have been sold, and a private street has been opened out before he can get permission to build? That is certainly not equitable. The memorialists say in the memorial presented to your Honour:—

"The building regulations (sections 235, 236, 237, 238, 241, 242, 243, and 244) invest the Corporation with preliminary powers, to refuse or to permit the erection of buildings. These sections are an unheard of innovation in the law of the land, and while they without fail to be a source of oppression to the people, they will, it is feared, lead to the depreciation of the value of land in Calcutta, and open a wide door to corruption."

I am quite prepared to support that statement, and I would add that if the building regulations are passed in the form in which they have been presented to the Council, they will open a wide door to corruption so far as the subordinate officers of the Corporation are concerned; and furthermore if the requirements are not modified in the way proposed there will be also this difficulty, that it will be impossible for a person to get sanction in less than six months. He must first get the site approved, then the position and the nature of the building must be approved, then all the materials must be approved. Before all this can be done, it seems to me that at least six months will elapse before a person will be able to obtain the sanction of the Commissioners. After having the site approved he has to submit plans and sections of every floor of the intended building, which shall show the position, form, and dimensions of the several parts of such building and of every water-closet, privy, urinal, cesspool, well, and other appurtenance; and in the case of a building intended as a dwelling house for two or more families, or for carrying on any trade or business

Acts on the subject, the limitations apply to sites falling within proposed streets and over sewers. These are the sites which are principally referred to in the English Statutes: the rest of the regulations are entirely as regards the nature of the buildings, the thickness of the walls, the open spaces to be left, and so forth. In the Bombay Bill section 340 provides as follows:—

"Every person who shall intend—

(*a*) to make any addition to a building; or

(*b*) to make any alteration or repairs to a building, not being a frame-building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the ground level, such half to be measured in superficial feet; or

(*c*) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid, such half to be measured in superficial feet; or

(*d*) to remove or reconstruct any portion of a building abutting on a street which stands within the regular line of such street;

shall give to the Commissioner, in a form obtained for this purpose under section 342, notice of his said intention, specifying the position of the building in which such work is to be executed and the nature and extent of the intended work."

The other sections of the Bombay Bill refer to the foundations and so forth, and I do not think they touch the point we are now discussing. The provisions in the Bombay Bill are very different from the sections in the Bill before the Council. They limit the power to sites which have not been built upon at all, and the first limitation is that where there is to be a new street it must be levelled and paved, and the opening of a new street may be dispensed with by the consent of the Standing Committee, so that in Bombay power has been given to the Corporation to control the discretion of the Municipal Commissioners. Here nothing of the kind is proposed. With every deference to the hon. member in charge of the Bill, I say that no controlling power is here given to the Corporation. I am fully aware that under the general supervising power of the Corporation over the proceedings of the Chairman, a motion may be brought forward in any particular case, and that the matter may be discussed. But that is a totally different thing: it is quite a different thing from first giving a power to refuse, and then leaving the aggrieved person liberty to

have to pay rates and taxes in respect of it Subject to correction by the learned Advocate-General and the Legal Remembrancer, I submit that an owner of land has an inherent right to make a legitimate use of his land as long as he does not cause any injury to his neighbours, and one of the legitimate uses to which he can put his land is certainly the building upon it of a suitable house for himself. I am quite willing, and I have never objected to power being vested in the Commissioners, to regulate the construction of buildings, but I object to any further power being given. The Select Committee in justifying the introduction of this section say in their report that a good deal of mischief has arisen from the absence of the power proposed to be conferred by this section, and that this power exists in the model bye-laws and in the Bombay Act. If the Commissioners consider that those model bye-laws should be followed, having regard to the manners and customs of this country, by all means let them make such bye-laws; but the circumstances in England and in this country are so different that the fact of the power existing under the model bye-laws in England is no justification for its introduction here. I have given notice of motion for the introduction of the following section in lieu of section 236 of the Bill, regarding the information to be given by a person before beginning to build a house :—

"Before beginning to build any new house, or to rebuild or materially alter the structure of any house, the person intending so to do shall give to the Commissioners notice hereof in writing, and shall accompany such notice with a plan of the site and the proposed buildings drawn to the scale of not less than one inch to every eight feet, showing the following particulars :—

(*a*) the position, form and dimensions of the several parts of such building, and of every water-closet, privy, urinal, cesspool, well and other appurtenances;

(*b*) the width and level of the street, if any, in front, and of the street, if any, at the rear of such building, the level of the foundation, and the lowest floor of such building, and of any yard or ground belonging thereto;

(*c*) the drainage of such building and of the intended size, depth, and inclination of such drain."

I submit that if this information is given, it will be ample for all practical purposes: it will enable the Commissioners to exercise sufficient control over buildings, and it will be unnecessary to give the further power of approval or disapproval of the site. As far as I have been able to look into the English

The section provides that the person shall submit a plan showing the position of the house with reference to—(*a*) some existing public street, or (*b*) some projected public street, or (*c*) some existing private street, or (*d*) some proposed private street; and the plan has also to show the position and approximate height of all other houses within 40 feet of the proposed site. These provisions are not in the existing law; and when the Bill was before the Council on the last occasion, these innovations had not been introduced. Then the existing law was modified to some extent, and it was considered sufficient to leave it in that position; but since then the hon. member in charge of the Bill has thought fit to introduce this section, and it was adopted by a large majority of the Select Committee. The members of the British Indian Association have taken exception to this section. A memorial has also been submitted to your Honour on behalf of a public meeting recently held, and in Select Committee I also took exception to it. My objection to the section is that the power given to the Commissioners is a very extensive one, and unless it is exercised with very great discretion, it is likely to be abused and a good deal of injury done to owners who want to build on their lands. Take, for instance, a case of this kind. A man has, say, 3 bighas of land which he wishes to sell in building lots; a man of ordinary means purchases 3 cottahs out of it, and then applies to the Corporation for permission to build. Under this section the Commissioners will be entitled to require him to show them where the proposed street is to be. This man having purchased only 3 cottahs out of the 3 bighas of land is not in a position to say where the proposed street will be; all he can say is that he is willing to leave some portion of his land which may be necessary for a street to be hereafter constructed. The rest of the land may not be sold for a year to come, and this man will in the meantime be kept from building on his land. This is perhaps an extreme case, but the power being conferred in the Commissioners, it may, for aught we know to the contrary, be exercised in this way. The proper safeguard is to require the owner of any land, before he sells it in building lots, to lay out proper streets with the sanction of the Commissioners. That is the real remedy. Such a provision will not only be just, but it will have the desired effect. But in the case I put of the purchaser of 3 cottahs of land out of 3 bighas, the land will be valueless to him, and yet he will

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

THE Council met at the Council Chamber on Saturday, the 21st April, 1888, at 11 A.M.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. Sir Henry Harrison, Kt
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.
The Hon. H. Pratt.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The Hon. Sir Henry Harrison moved that the clauses of the Bill to consolidate and amend the Law relating to the municipal affairs of the Town and Suburbs of Calcutta, as further amended, be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The Hon. Babu Kali Nath Mitter moved that section 235 of the Bill be omitted.

He said:—This section gives power to the Commissioners to approve of, or to reject, any building site upon which any person wishes to build.

[*Sir Henry Harrison; Mr. Allen.*]

Act added to the Town of Calcutta" the words "shall not apply to the area by this Act added to Calcutta, or to any area hereafter included in it under section two hundred and fifty-seven" be substituted.

The HON. MR. ALLEN said:—I think this section prohibiting the roofs and external walls of huts being made of inflammable materials is already in force in a considerable part of the area which is to be added to Calcutta.

The HON. SIR HENRY HARRISON said:—In such portions of the added area where this section is already in force, its provisions will at once be applied by the Commissioners in meeting, and it will be extended thereafter as they think fit.

The motion was put to the vote and carried.

The consideration of the further clauses of the Bill was postponed to the next sitting of the Council.

The Council was adjourned to Saturday, the 21st April, 1888.

CALCUTTA;
The 3rd May, 1888.

WILLIAM GRAHAM,
for Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 2946G—300—26-5-88.

[*Babu Kali Nath Mitter; Sir Henry Harrison; Mr. Reynolds; The President.*

He said:—The object of this amendment is to widen the scope of th section in order to prevent the very cases which generally happen, viz., that of persons who sell lands in small parcels, leaving only narrow pathways.

The Hon. Sir Henry Harrison said:—The only objection I have to this amendment is as to its wording which is not clear.

The Hon. Mr. Reynolds asked what test the Hon. Member proposed to show that a person is desirous of selling land in small parcels? The words proposed appear to be unnecessary.

The Hon. Babu Kali Nath Mitter said in reply:—To my mind section 213 is sufficient; but notwithstanding that section the Executive has not been able to control the cases which have happened; therefore I am desirous of seeing whether or not the section can be so improved as to deal with such cases. I wish to reach the person who in the first instance sells land in small parcels, instead of those who have purchased small plots of land, and subsequently build upon them.

The Hon. Sir Henry Harrison replied:—The object my hon. friend wishes to attain can best be secured by prohibiting the building of any house without the site being first approved. He wishes that owners should be prohibited from selling land in small parcels without w[illegible] the purchasers that they cannot build upon the land until a street is first l[illegible] I ask, is it the object of the owner of land to lay out roads? If [illegible]e will say he does not wish to lay out a new street.

The Hon. Babu Kali Nath Mitter said in reply:—In every case certain portions of the land are left for streets. If those streets are constructed with the approval of the Commissioners there will be no difficulty. If the site is objectionable the sale will be objected to at the beginning, instead of punishing the persons who have bought the land in small parcels, by refusing them permission to build on it.

[His Honour the President thought the wording of section 213 covered all the ground of the amendment and more.]

The Motion was then, by leave, withdrawn.

The Hon. Sir Henry Harrison moved that, in the last paragraph of section 224, for the words "shall not *apply* to any portion of the area by the

should be introduced. Persons purchase land in the interior, not on the side of any street; they build houses, and leave small paths as streets or passages; other houses are built without leaving adequate paths for streets; the place becomes insanitary, and they ask the Commissioners to improve the locality. Precisely such a case happened in Sukea's Bagan, and it had to be improved at the expense of Rs. 30,000. It was sparsely inhabited at first, but afterwards became crowded with habitations. But if under the law a person having a house would be precluded from opening a street leading to a public street without permission, then the Commissioners would have full control as to the width of the street and the drainage. This amendment would render many of the sections providing building regulations unnecessary; because if the Commissioners have power in the first instance as to the opening out of streets, a great deal of the difficulty which at present arises will be overcome. Another case of the same sort recently came up in Rajah Bagan; small houses were built in promiscuous places without obtaining permission as to the opening out of lanes and pathways; the place got into an insanitary condition, and the residents applied for improvement. The late Officiating Chairman suggested the opening out of two large streets, and the result is that the Commissioners will have to spend about a lakh of rupees to improve the locality. All this will be prevented if the amendment which I now propose is adopted.

The Hon. Sir Henry Harrison said:—The Hon. Member has admitted that all he wishes to do is to make more clear what section 213 is intended to do. I have no objection to the wording of the proposed section, but I do not see any necessity for it. The inconvenience which is felt is not as to the laying down of a new street, but to the building of houses here and there without reference to any proper street, but with only small tortuous paths here and there. The object which this section is intended to meet will be better obtained under the building sections which come later on.

The motion was put to the vote and negatived.

The Hon. Babu Kali Nath Mitter moved that, in line 1 of section 213, for the words "Every person who" the words "Whenever a person, being desirous of selling any land belonging to him in small parcels, or otherwise" be substituted.

only alter the shape of a piece of land in such a case by increasing its size or by reducing its size. Here there is no question of increase in size. Consequently the words referring to reduction of size must include alteration in shape.

The HON. BABU KALI NATH MITTER said in reply:—A threat held out in a particular case should not justify an innovation in the law, on the supposition that the claim made in that case was a just one, and would be allowed by the courts. I do not think we can assume anything of the kind. Under the present law the owner will get what he is entitled to by the Land Acquisition Act, and I do not see why any difficulty should be thrown in the way by introducing the word "direct," and then proceeding to define the word.

The Motions being put, the Council divided:—

Ayes 4.	*Noes* 8.
The Hon. Dr Gooroo Dass Banerjee.	The Hon. H Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore
The Hon. Babu Kali Nath Mittor.	The Hon. Moulvie Abdul Jubbar.
His Honour the President.	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.

So the Motions were negatived.

The HON. BABU KALI NATH MITTER moved that, after section 212, the following new section be inserted:—

"212A. It shall not be lawful for an owner or occupier of a house, which does not front, adjoin, or abut upon a public road, street or lane, to lay out a new street, lane or pathway leading to such public road, street or lane, without obtaining the written sanction of the Commissioners, who may, before granting such sanction, call upon such person to submit a plan showing the intended level and width of such street, lane or pathway, and the arrangements made for draining it. If the Commissioners approve of the plan, they shall, within thirty days from the date of the receipt of such plan, accord such sanction; but if they do not approve of the plan, they shall refuse such sanction."

He said:—To my mind the provisions of section 213, if properly worked, will be quite sufficient for all purposes, but that section has hitherto not been worked in that way, and therefore it is necessary that a provision of this sort

the owner for any damage he may thereby sustain. Certainly that section reads as if it was intended to confer a power of some value on the Commissioners; for instance, they might take advantage of the opportunity to widen the street more advantageously than they could otherwise do; but if this amendment is adopted of what value is it? The question is, what is the compensation to be given? Is it compensation under the Land Acquisition Act? An instance in illustration of this occurred in Old Court House Lane in which a house was taken down for the purpose of being rebuilt, and it was pointed out that advantage might be taken of the opportunity to make the lane (an important thoroughfare) of uniform width. We gave notice to the owner of our intention to take up a small portion of the land at the orifice to the lane for the purpose stated, but he insisted on the Commissioners taking up the whole house, and demanded Rs. 80,000 as compensation. We took advice, and we were advised not to acquire the land unless we were prepared to face the probability of having to pay for the whole of the plot; and thus an important improvement was abandoned. Suppose in such a case there are two cottahs of land, and the Commissioners wish to take up one cottah, it is fair and reasonable that the owner should be compensated for any injury done in diminishing the area of the land as building ground, but no indirect damages should be included?

The Hon. Dr. Gooroo Dass Banerjee said:—I support this amendment. The law will never give a decree for indirect damages, and therefore the common law being sufficient, we should not, for the benefit of the Corporation, insert a provision that is unnecessary. Just as in the other case the Hon. Member pointed out that for the protection of private owners it is unnecessary to include in the law what the common law already provides for: so in this case. And there is a further reason for supporting this amendment. In the definition given of "direct" damage reduction in size is stated, but no reference is made to alteration in shape which may equally cause a depreciation in value. We know that people require rectangular pieces of land for building purposes, and therefore change in the shape of the land is a material element.

The Hon. Mr. Macaulay said:—I cannot see any necessity for the introduction of any reference to altering the shape of the piece of land. You can

really is. I cannot see why this section, giving legal authority to dispose of the site of a closed-up street, should conflict with the resolution of the Commissioners under which the sale of land in front of private property is now conducted. The Commissioners now dispose of such land to the owners on either side of it, but if they cannot come to terms with them, they must give it to an outsider. But I do think a provision for ingress and egress very reasonable.

The HON. DR. GOOROO DASS BANERJEE'S motion being put, the Council divided:—

Ayes 5	*Noes* 7.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
The Hon Sir Alfred Croft.	The Hon. Sir Henry Harrison.
His Honour the President.	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER'S motion was put to the vote and negatived.

The HON. BABU KALI NATH MITTER moved that, in line 3 of the proviso of section 207, the word "direct" be omitted; and that the last clause of the same section be omitted.

He said:—Under the Land Acquisition Act damages are already allowed, and I cannot see why compensation should be limited by this Bill to "direct" damages. The Land Acquisition Act distinctly states what damages should be allowed. Indirect damages are as a matter of law never allowed.

The HON. SIR HENRY HARRISON said:—The question raised by this amendment is not of very great importance, but I will explain why the provision now objected to was put in. The law as it stands provides that whenever a house which projects beyond the regular line of a public street has been taken down in order to be rebuilt, the Commissioners may require the same to be set back to or towards the line of the street, or the line of the adjoining houses; provided that the Commissioners shall make full compensation to

[*Dr. Gooroo Dass Banerjee; Babu Kali Nath Mitter; Dr. Mahendra Lal Sircar; Sir Henry Harrison; The President.*]

The HON. DR. GOOROO DASS BANERJEE said in reply :—The remarks of the hon. member in charge of the Bill go fully to show the necessity of inserting the words in my amendment. First he said that due compensation may be taken to include provision for ingress and egress. He may be of that opinion, but others may think differently. The word "compensation" means pecuniary compensation. At the same time he admitted that it is a common law right that a way of necessity must be given, and there can therefore be no objection to provide for it expressly by mentioning it in the law itself. The only word in my amendment which is considered objectionable is "sufficient," but whether that word be inserted or not, the amount of compensation must be determined by a court of law. That, however, is no reason why no provision should be made in the Bill.

The HON. BABU KALI NATH MITTER said in reply :—The hon. member in charge of the Bill is under some misapprehension as to the effect of my amendment, as he thinks it will interfere with the power of the Commissioners to close streets. Suppose the Commissioners close up a street, and the land between the houses in front of such street and the new street is sold to strangers; the owners of such houses will not have the means of ingress and egress? There is no provision in the existing law authorising the Commissioners to sell a street. [Sir Henry Harrison—The Commissioners may, under section 137, sell any land vested in them which is not required for the purposes of the Act.] That will not apply in these cases. I submit that section 205 of this Bill is a new provision, and it has actually been marked in the Bill as a new section; and before such a power is conferred there must be a safeguard as to the disposal of the land, having reference to the rights of the persons interested.

The HON. DR. MAHENDRA LAL SIRCAR said :—I cannot understand under what circumstances a street can be closed without interfering with the sanitation of the town.

The HON. SIR HENRY HARRISON replied :—The closing of a street is always undertaken in connection with some other improvement.

HIS HONOUR THE PRESIDENT said :—While I can perfectly see the objection to the motion of the Hon. Babu Kali Nath Mitter, I cannot understand what the objection to the amendment of the Hon. Dr. Gooroo Dass Banerjee

a part of a street is closed or diverted, and there are twenty houses on one side of it? The road may now be 20, 30, or 50 yards off, and the land between the new street and the house is bought by a stranger. The injury done to the owners of the property which was situated on the side of the old road will be so great that it will be impossible to compensate them by a mere money payment. Each owner should be allowed to take up the land in front of his house at a reasonable value and to advance his premises to the new street. There would then be no objection; but if strangers are allowed to come in, great injury will be done. The section should be so worded as to render it impossible for the Commissioners to commit such injury. By a resolution of the Commissioners in meeting, the individual is always offered the land in front of his house at a fair valuation. Before that resolution was passed, the land was always sold by public auction, and I know of an instance where such land of the value of Rs. 500 a cottah was with some ulterior object bought by a man's next-door neighbour for Rs. 2,400 a cottah. Since then the resolution to which I have referred was passed, and no difficulty has occurred. Practically the object of my motion is to retain the present state of things.

The HON. SIR HENRY HARRISON said:—I cannot admit that the Commissioners are not to be allowed to close a street except with the consent of the owners of property on either side of it. The words in the Bombay Bill are, "with the sanction of the Council the Commissioners may permanently close all or any part of a public street," and in Select Committee they added:—"Provided that the sanction of the Council shall not be given unless at least one month before the meeting notice has been given informing the residents of the said proposal in order that objections may be received." I have no objection to a provision of that kind. But under the amendment now proposed, the Commissioners will be unable to dispose of the site without the consent of the owners of the property situated on either side of the street. The section in the Bombay Bill provides that "the site may be disposed of and sold as land belonging to the Corporation." If you construct a new street, you must sometimes close another street or part of a street. The right of selling the site must be given, compensation being paid for the injury done to owners of property, to such amount as may be determined by any independent tribunal.

[*Dr. Gooroo Duss Banerjee; Sir Henry Harrison; Babu Kali Nath Mitter.*]

He said:—The section as it stands only provides for the grant of compensation, by which I understand pecuniary compensation for the inconvenience caused by the closing of the road. The section says nothing about provision being made for means of ingress and egress of which in all probability the person will be deprived by the closing of the road. It may be said that, strictly speaking, under the ordinary law he would be entitled to means of ingress and egress, which is technically termed a way of necessity; but seeing that the section makes mention of the word "compensation," there should be provision for a way of necessity. The amendment does not provide any additional obligation.

The Hon. Sir Henry Harrison said:—The words "making compensation" are extensive. Compensation is to be given for every advantage which a person had, and the means of ingress and egress are usually matters which are included. It is perfectly certain that such provision will be made, otherwise the Corporation will have to pay enormous compensation, because the person's house would be hermetically sealed. If the amendment is adopted, what will be included within the words? Will it mean that in every case there must be a carriage way? It will be for the Court to decide in each case. Even by the common law a person cannot be shut up in his house.

The Hon. Babu Kali Nath Mitter moved that, for section 205, the following be substituted:—

"When any public street is permanently closed under section two hundred and three, the Commissioners may, with the consent of the owner or owners of the property situated on either side of such street, dispose of the site of so much of the roadway and footpath as is no longer required, making due compensation to such owner or owners. And if any dispute shall arise touching the amount or apportionment of such compensation, it shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses:

Provided that in determining such compensation, the Court shall make allowance for any benefit conferred on the same premises or any adjacent premises belonging to the same owner by the construction or improvement of any other public street, at or about the same time that the public street, on account of which the compensation is paid, is closed."

He said:—It is possible to conceive of many cases where a money payment will not compensate an individual for the closing of a road. Suppose

The HON. DR. GOOROO DASS BANERJEE's motion being put, the divided:—

Ayes 4.	*Noes* 8.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mittar.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER's motion was put to the vote and negatived.

The HON. DR. MAHENDRA LAL SIRCAR moved that, after clause (*c*) of section 204, the following words be added:—"Provided that the profits accruing therefrom be devoted to the purpose for which the land is acquired."

He said:—The object of the amendment is to prevent the profits derived from the construction or improvement of a street being applied to any other purpose. The amendment is so clear and just that I do not see what possible objection can be taken to it.

The HON. SIR HENRY HARRISON said:—I do not see any reason for this amendment. The Municipality does not derive any profit in such cases. If, for instance, the construction of a road cost 20 lakhs, and 15 lakhs are recovered by the sale of surplus land, the 15 lakhs are set off against the 20 lakhs.

The HON. DR. MAHENDRA LAL SIRCAR said in reply:—The proviso will act as a check upon the Corporation acquiring more land than is necessary for the purpose, and it will prevent any surplus being applied to any other purpose.

The motion that was put to the vote and negatived.

The HON. DR. GOOROO DASS BANERJEE moved that, in line 7 of section 205, after the words "public purpose on compensation to" the words "and providing sufficient means for" be inserted.

[*Dr. Gooroo Dass Banerjee; Sir Henry Harrison; Babu Kali Nath Mitter.*]

He said:—The section as it stands only provides for the grant of compensation, by which I understand pecuniary compensation for the inconvenience caused by the closing of the road. The section says nothing about provision being made for means of ingress and egress of which in all probability the person will be deprived by the closing of the road. It may be said that, strictly speaking, under the ordinary law he would be entitled to means of ingress and egress, which is technically termed a way of necessity; but seeing that the section makes mention of the word "compensation," there should be provision for a way of necessity. The amendment does not provide any additional obligation.

The Hon. Sir Henry Harrison said:—The words "making compensation" are extensive. Compensation is to be given for every advantage which a person had, and the means of ingress and egress are usually matters which are included. It is perfectly certain that such provision will be made, otherwise the Corporation will have to pay enormous compensation, because the person's house would be hermetically sealed. If the amendment is adopted, what will be included within the words? Will it mean that in every case there must be a carriage way? It will be for the Court to decide in each case. Even by the common law a person cannot be shut up in his house.

The Hon. Babu Kali Nath Mitter moved that, for section 205, the following be substituted:—

"When any public street is permanently closed under section two hundred and three, the Commissioners may, with the consent of the owner or owners of the property situated on either side of such street, dispose of the site of so much of the roadway and footpath as is no longer required, making due compensation to such owner or owners. And if any dispute shall arise touching the amount or apportionment of such compensation, it shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses:

Provided that in determining such compensation, the Court shall make allowance for any benefit conferred on the same premises or any adjacent premises belonging to the same owner by the construction or improvement of any other public street, at or about the same time that the public street, on account of which the compensation is paid, is closed."

He said:—It is possible to conceive of many cases where a money payment will not compensate an individual for the closing of a road. Suppose

Ayes 4.	*Noes* 8.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mittar.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The Hon. Babu Kali Nath Mitter's motion was put to the vote and negatived.

The Hon. Dr. Mahendra Lal Sircar moved that, after clause (*c*) of section 204, the following words be added:—"Provided that the profits accruing therefrom be devoted to the purpose for which the land is acquired."

He said:—The object of the amendment is to prevent the profits derived from the construction or improvement of a street being applied to any other purpose. The amendment is so clear and just that I do not see what possible objection can be taken to it.

The Hon. Sir Henry Harrison said: I do not see any reason for this amendment. The Municipality does not derive any profit in such cases. If, for instance, the construction of a road cost 20 lakhs, and 15 lakhs are recovered from the sale of surplus land, the 15 lakhs are set off against the 20 lakhs.

The Hon. Dr. Mahendra Lal Sircar said in reply:—The proviso will serve as a check upon the Corporation acquiring more land than is necessary for a specific purpose, and it will prevent any surplus being applied to any other municipal purpose.

The motion was put to the vote and negatived.

The Hon. Dr. Gooroo Dass Banerjee moved that, in line 7 of section 205, after the words "compensation to" the words "and providing sufficient means of ingress and egress for" be inserted.

| A
r. Gooro. icipal Corporation to acquire more land than what is strictly required
icipal purposes. The only reason which is given for the authority
le said :- is that the adjacent lands on both sides of the street will command
ion, by value than they commanded before the street was opened or improved.
But I do not think that is an equitable ground for depriving persons of their property. The property on either side of a line of railway is improved in value by its construction, but I do not think a Railway Company is authorised to acquire excess lands on both sides of a railway because their value will be increased by the opening out of the railway.

The Hon. Sir Henry Harrison said :—I do not propose to argue this question at any length. The section in this Bill is not believed to make any change in the law : legal opinion has declared that clearly ; but as some doubts had been expressed, it was thought as well to introduce the wording of the Bombay Act which states the matter clearly. To my mind the first principles of equity show as clearly as possible that what is proposed is right. The section provides that when you are constructing a street, you may take up sufficient land to cover the buildings on either side of the street : to make it possible for proper houses to be built, you must give proper plots of lands. Otherwise you will find here a deep block, there strips of a few feet wide only enough to build godowns. If you wish to ensure success, you must acquire sufficient land on either side ; and having got the land, is there anything unjust in selling it for a higher price entirely caused by your improvement ? Owners are already paid 15 per cent. in addition to the market value as compensation for the enforced acquirement. Suppose the construction of a street to cost twenty lakhs, and the property on both sides to be enhanced five times in value, our friends contend that the public should get none of the enhancement and that the fortunate owners on both sides of the street should get 5 per cent. of the benefit ? To my mind there is absolutely no equity in such a claim. Those who have created the enhanced value of the side property are the persons to whom the increased value ought to go. The law sufficiently guards the interests and rights of the owners themselves by giving them 15 per cent. as compensation in addition to the market value of their property. I hope the Council will reject these amendments.

property belonging to a certain portion of the community pa
the improvement. That to my mind is inequitable. The argu
been put forward with success—and I have no doubt will be put fo
with a great deal of force—is that by spending a large sum of mo
Commissioners improve a certain locality, and why should they do that f
benefit of a limited number of persons; that if this limited number of pe
get the largest benefit, they should pay for an adequate share of the impr
ment—an adequate share by the deprivation of their property. If a loan
raised for the improvement, these persons will have to bear their share
of the interest and of the sinking fund for the repayment of the loan; and
moreover when the locality is improved, the assessment on the property of
these persons will be increased. In the first instance they contribute in the
same way as the rest of the public for the payment of interest and for the
sinking fund; and secondly, because they enjoy the benefit most their property
is made to pay a larger assessment. It strikes me also in another manner.
Whenever a particular property is improved, it is improved no doubt in the
first instance for the benefit of all, and secondarily for the benefit of the persons
who reside in the locality. The improvement of sanitation benefits the town,
and these persons expect to share in the improvement. But the secondary
object of the improvement is defeated if the property is taken away from
these persons, and they are driven out of Calcutta. If the Legislature provides
that additional lands may be acquired for improving a locality, and that the
excess lands should be re-sold to the parties at the cost price, the objection would
be minimised. Of course, no profit would not then be made. But I rest my
objection on the higher ground that a violation of the rights of private property
should not be tolerated unless it is for the public benefit, and that is the ground
on which the Land Acquisition Act is based. The Government has to declare
that a particular tract of land is required for a public purpose, and then the acqui-
sition can be made. Traffic in land is in effect declared by this section to be a
public purpose, which to my mind is not a public purpose contemplated under
the provisions of the Land Acquisition Act. Under these circumstances I move
that these clauses of the section be omitted.

The Hon. Moulvie Abdul Jubbar said:—I support the motion of the
Hon. Dr. Gooroo Dass Banerjee. I do not see any good reason for authorising

[Dr. [illegible] o be erected, and such matters. I do not know whether, having
He [illegible] ransfer of Property Act, such conditions can be imposed. That
pensati[illegible]ates the purchase of property in Calcutta, and I am not aware that
nien[illegible]onditions can be imposed. Besides that, my opposition to these clauses
[illegible]ests on the ground that it is altogether inequitable. Section 190 of the
[illegible]ing law provides that the Commissioners, making due compensation to the
ners and occupiers of any houses or land which may be acquired for any such
urposes, may lay out and make new streets, and may widen, open, enlarge or improve any street; and for the purposes of this section the Commissioners in meeting may purchase any land necessary for houses and buildings to form any public street or for the improvement of any public street. So far as I have been able to understand the present Act, there are three modes by which the Commissioners may take over lands. First, they may do it themselves, under certain circumstances, the Court of Small Causes settling the amount of compensation to be paid; secondly, they may acquire it under the Land Acquisition Act; and thirdly, they may obtain it by purchase or by mutual agreement. I can see no objection to the Commissioners purchasing additional land whenever there is any necessity to do so; that means whenever the owner is willing to part with it. But the section in this Bill alters that, and makes it lawful for the Commissioners to acquire in addition land and buildings outside of the regular line of a street, provided that, without the special sanction of the Local Government, not more than 100 feet shall be acquired on either side of the regular line of the street. I wholly fail to understand this latter clause. Under the law in every instance the sanction of the Local Government is to be obtained, and without the sanction of the Government not a single inch of land can be acquired. The idea, though not stated in the section, is that by acquiring a great deal more land than is required when a locality is to be improved, the excess land when resold will fetch a considerably larger price than was paid by the Commissioners, and thus the cost of the improvement will be very much reduced, and in some cases it will probably be nil. That, I submit, is not the policy of the law. The policy of the law is that not only the present generation, but future generations should pay for works of a permanent character. If you drive away a large number of persons from their houses in expectation of re-selling the land at a profit, you virtually make

is improved or widened, it increases the value of the adjacent land on both sides up to a certain distance; and if the former owners are allowed to retain the land, they will, it is said, benefit at another's expense. But if we examine the point a little more narrowly, it will appear that this argument is more specious than sound; for it is not correct to say that the owners of the adjacent lands derive advantage without paying for it. They do pay by contributing as rate-payers to the funds of the Municipality, and that is the purse out of which the acquisition is made. Nor can it be said that it will be wholly wrong for them to derive an incidental advantage. A street is to be opened or widened for a public purpose. It is a public purpose not merely because a street will be required for public traffic, but because the public will be benefited in other ways, such as by improved ventilation and the like. Therefore the advantage which the owners of adjacent lands derive by the value of their property being raised is one of the necessary incidental advantages to which the public or a portion of the public have a right. And I see no reason why the Municipality should be allowed to acquire these additional lands for the purpose of selling it at a profit.

Again it might be said that for the ornamentation of the town it is desirable that the buildings on either side of large streets should be of a certain form or size. This object would be secured if the Municipality in the first instance acquires land adjacent to a street and sells it under certain conditions. If that is the object, let us provide that the buildings by the side of public roads should, whenever they are taken down, be rebuilt in a certain way. That will be a far more satisfactory way of securing the object in view than this indirect mode.

The HON. BABU KALI NATH MITTER moved that clauses (*b*) and (*c*) of section 204 be omitted, and that the last paragraph of the same section be also omitted.

He said:—This motion is precisely the same in effect as the last. Clause (*b*) of the section applies to the acquisition of additional lands, and clause (*c*) gives authority to sell or otherwise dispose of any land or building acquired under clause (*b*). And then there is a further clause that any reconveyance of land or of a building under clause (*c*) may comprise such conditions as the Commissioners think fit as to the removal of the existing building, the description

[*Sir Henry Harrison; Dr. Gooroo Dass Banerjee.*]

88. The Hon. Sir Henry Harrison moved that, in section 187, for the words "seven days from the date of the death" the words "seven days of his becoming cognizant of the death" be substituted.

He said:—A medical gentleman represented to me that in many cases a doctor attends, but not having given satisfaction, he has not attended further. The object is not to make him liable under this section unless he knows of the death.

The motion was put to the vote and carried.

The Hon. Dr. Gooroo Dass Banerjee moved that, in line 3 of section 191, after the word "certificate" the words "or entry in a register" be inserted.

He said:—This is a verbal amendment. The object is to make the language of the section harmonise with section 190, which provides that in certain cases an entry in the register is substantially the same as a certificate.

The motion was put to the vote and carried.

The Hon. Dr. Gooroo Dass Banerjee moved that, for section 204, the following be substituted:—

> "The Commissioners in meeting may acquire any land required for the purpose of opening, widening, extending or otherwise improving any public street, or of making any new public street, and the buildings, if any, standing upon such land."

He said:—The object of this amendment is to leave out of section 204 those clauses which authorize the Commissioners to acquire in addition to any land which may be actually required for the opening or widening of any street, additional land extending to 100 feet on both or either side of the street. That provision, I submit, is wholly objectionable. Private property ought to be held to be sacred, and the compulsory acquisition of it ought never to be allowed unless it is distinctly required for a public purpose. Acquiring land for the purpose of selling it at a profit may be advantageous to the Municipality, but I can hardly persuade myself to say that it is a public purpose which would warrant compulsory acquisition. If the doctrine were true that a public body like the Corporation can increase their funds by acquiring lands in that way, the doctrine will be most dangerous to private property, and I do not think the hon. member in charge of the Bill will rest his case on that ground. I know it may be said that there is further justification. Whenever a new street is opened or an existing street

schedule from time to time. These two motions will be proposed when we come to the schedule. If that is lost, then we come to the proposal of the Hon. Babu Kali Nath Mitter that the scale of ferrules be determined by the Commissioners in meeting.

The HON. BABU KALI NATH MITTER's motion that, in section 155, the words "five thousand gallons" be substituted for the words "three thousand gallons" was put to the vote and negatived.

The consideration of the HON. BABU KALI NATH MITTER's second amendment, that the words "through a ferrule, the size of which is to be determined by the Commissioners in meeting" be substituted for the words "through a ferrule of the size indicated in the ninth Schedule," was postponed till the Ninth Schedule of the Bill comes up for consideration.

The HON. DR. GOOROO DASS BANERJEE moved that, in lines 6 and 7 of section 186, the words "every person present at the death, or in case of their default" be omitted.

He said:—The object of this section is to have correct and complete registers of deaths, and that object, I submit, will be fully secured by imposing an obligation to register deaths on the relatives and persons in attendance during the last illness of any persons dying in Calcutta, and also in case of their default, on the occupiers of the houses in which the death takes place. It is not only unnecessary, but unfair and unjust, to impose the duty on every person present at the time of the death. Many of the persons may be mere casual spectators; and the injustice of this provision will appear all the more clearly when it is borne in mind that a breach of this duty is made punishable under section 188.

The HON. SIR HENRY HARRISON said:—This is an obligation which has been imposed by law for some years past, but how far it has been of use I cannot say: people are not present at deaths unless they have some interest in the person dying.

[HIS HONOUR THE PRESIDENT pointed out that the wording of the existing Act is "some one of the persons present."]

[The HON. DR. GOOROO DASS BANERJEE saw no objection to the wording of the existing Act.]

The amendment was put to the vote and negatived.

whatever; but after the enquiry which is now being made it may be necessary to do so. As the whole matter of the water-supply of the town is in the hands of the Commissioners, it is only right that the question of the size of ferrules should also be left to them. If my amendment is not accepted, I shall be willing to adopt the suggestion of my hon. friend Mr. Macaulay, and allow the consideration of the question to stand over.

His Honour the President said:—It seems to me that the proposals before the Council are getting a little mixed. As it stands we have a scale of ferrules in the schedule, and we have a proposal that a scale should be laid down with power to the Commissioners to modify the scale in individual cases. On the top of that the Hon. Babu Kali Nath Mitter proposes that the arrangement of the scale of ferrules should be left entirely to the Commissioners, and that the Legislature should take no part in it. Again, until the enquiry of which we have heard is completed, we have been told by the Hon. Mr. Macaulay that it will be better to hang up the question altogether. But the hon. member in charge of the Bill tells us that the enquiry will not be completed for another month, and that when it is completed we shall know little more about it than we do now; so a further proposal is made for us nominally to adopt the scale of ferrules now in the schedule, but at the same time we are to say that the Commissioners need not adopt it unless they like. It seems to me that if we are to leave to the Commissioners the power to alter the schedule at their pleasure, it is better to leave it to them at once. If you cannot trust your scale, and if the enquiry is not likely to throw any real light on the way in which the working of the formula differs from the practical discharge through the ferrules, it seems to me that as you cannot lay down a scale which you can trust to work easily, it will be better not to take the responsibility of laying down any scale at all. The first question is whether we shall adopt the section in the Bill as it stands, leaving, as the hon. member in charge of the Bill suggests, the schedule which contains the scale an open question; in which case it can be considered at another sitting of the Council, or any other scale can be inserted in the Bill; and we can at the same time discuss the provision which Sir Henry Harrison proposes that it should be in the power of the Commissioners in meeting, with the sanction of the Local Government, to alter or vary the

The HON. SIR HENRY HARRISON said in reply:—I do not see any substantial difference between the action which I now propose to take and what I did in Select Committee. If the Council, looking to the representations made by all classes of the community, wish to settle this question now, they must settle it by themselves prescribing a standard. What I have said to-day is that, so far as the Executive will have difficulty in getting the consent of the Commissioners to a proper scale of ferrules, I am willing to undertake the task of getting it passed. I think that in the long run when the matter is threshed out, the Commissioners will adopt a reasonable scale of ferrules; but it will be much more difficult to convince them than it has been to convince the Select Committee. As regards the proposal to postpone the consideration of this question, I have only to say that what I know now the Council will know a month hence. A formula which requires normal conditions cannot apply strictly to concrete cases. There is scarcely a single house in the town to which the formula will absolutely apply. In some cases the supply will be more abundant, and in other instances less than the standard quantity. I am afraid the Council will not find themselves in a better position by postponing this question, but if they wish to do so I have no objection. I think there can be no objection to a standard schedule so long as it is perfectly clear that there is power to alter it; and so far as the alteration applies to individual cases that power must be left in the hands of the Commissioners. Provision is made for such cases in section 158, clause 2, which provides that if the house is so situated that the size of the ferrule prescribed is insufficient to pass the daily supply of water which the occupier of such house is entitled to receive, the Commissioners shall permit the use of a ferrule of such size as shall be sufficient to pass such supply. That is the section which applies to particular cases, but we also agreed to give a power to revise the schedule as a whole. That might be left to the Commissioners in meeting with the approval of the Local Government.

The HON. BABU KALI NATH MITTER said in reply:—I do not propose to take up much time in replying, after the hon. member in charge of the Bill has expressed his willingness to accept my second amendment: at any rate he has no objection to offer to it, and that being so, I hope the Council will adopt that amendment, which I think is right in principle. The question of the reduction of the ferrule has never been raised before the Commissioners in any shape

much more water than that to which they are entitled, to the disadvantage of those who apply for water connections later on. It has been a regular scramble; first come first served. To avoid that the Hon. Member induced the Select Committee (another view was adopted by a large majority) that the responsibility of fixing the size of the ferrules should be taken out of the hands of the Municipal Commissioners; that the Act itself should lay down the scale of ferrules according to the mathematical formulæ, so calculated that during the hours the pressure is kept up every man in Calcutta would be capable of receiving an amount of water which the rate he paid entitled him to receive. There was no intention to deprive a single person of a gallon of water which his rate entitled him: but it was determined that he should take his allowance so as not to deprive others. We were at the same time prepared to allow that in exceptional cases, where from houses being situated at a distance from the centre of the water-supply or from other exceptional circumstances, the proper supply could not be given from the standard ferrule, the Commissioners should have the power of altering and enlarging the ferrule to suit the peculiarities of the locality, and I understood that a clause to this effect would be appended to the schedule. I would strongly urge that this is the better course to adopt, and that the section now under consideration should stand as it is; but when we come to consider the schedule, it may, if necessary, be altered, and a clause may be inserted, entitling the Commissioners, with the approval of the local government in exceptional cases and for special reasons, to enlarge the ferrule.

The Hon. Dr. Gooroo Dass Banerjee said:—After the admission made by the hon. member in charge of the Bill that the formula upon which the schedule of ferrules depends is not strictly correct, and that experiments are being made to test its accuracy, I think it will be very unsafe to pass this section of the Bill as it stands; for the result of the testing may show that the standard we have adopted as the basis of the schedule, viz., a supply of 16¼ gallons per minute through a ferrule half inch in diameter, is nothing near the truth, and that the real quantity is about the eighth part of that. In that case there will be no justification for saying that what we call the normal standard is the normal standard. Either the consideration of this question should stand over, or if the Council prefer to dispose of it now, we must accept the amendment of the Hon. Babu Kali Nath Mitter.

The HON. MR. MACAULAY said:—As regards the first amendment of my hon. friend Babu Kali Nath Mitter, I think the arguments of the hon. member in charge of the Bill cannot be disputed, and that the Council should resist the amendment. As regards the willingness of Sir Henry Harrison to accept the second amendment, I would ask the Council to consider what the effect of that amendment will be. It is perfectly clear that the existing scale of ferrules has resulted in a considerable waste of water by certain people to the disadvantage of other people. Some people get a great deal more water than they pay for, because they are able to intercept it, while others are unable to get even as much as they pay for. This is the result of the adoption of the present scale of ferrules. Still I do not think it can be fairly said the Commissioners will be willing to exercise the very invidious task of reducing the dimensions of ferrules, and therefore I think the Council should wait until they are in a position to fix the schedule of ferrules in such a way as to give a standard to which the Commissioners can apply themselves. I understood in Select Committee that we had practically decided that. We found that the existing ferrules were on too liberal a scale, that the Engineer to the Corporation was engaged in practically testing the correctness of the mathematical formula, and that his enquiries have not yet been completed. There remain only the questions whether we should now fix a scale of ferrules in the schedule, or leave it to the Commissioners to do so, or wait until we are in possession of the results of Mr. Kimber's investigations. I ask the Council to allow the consideration of this question to stand over during the time we are in Session, so that we may be in possession of fuller information before we come to prescribe any scale in the schedule.

The HON. MR. ALLEN said:—I would ask the hon. member in charge of the Bill to say whether it was not his suggestion that the question of the size of ferrules should be taken out of the hands of the Commissioners and embodied in the Bill by the Select Committee, and whether it was not in consequence of his having informed the Select Committee that he felt it perfectly hopeless to induce the Commissioners (who wanted a larger quantity of water than that to which they were entitled) to reduce the size of the ferrules, and that he wished a scale of ferrules to be inserted in the Act. At present the scale of ferrules is such that those who have been first in the field are able to take

much more water than that to which they are entitled, to the disadvantage of those who apply for water connections later on. It has been a regular scramble; first come first served. To avoid that the Hon. Member induced the Select Committee (another view was adopted by a large majority) that the responsibility of fixing the size of the ferrules should be taken out of the hands of the Municipal Commissioners; that the Act itself should lay down the scale of ferrules according to the mathematical formulæ, so calculated that during the hours the pressure is kept up every man in Calcutta would be capable of receiving an amount of water which the rate he paid entitled him to receive. There was no intention to deprive a single person of a gallon of water which his rate entitled him: but it was determined that he should take his allowance so as not to deprive others. We were at the same time prepared to allow that in exceptional cases, where from houses being situated at a distance from the centre of the water-supply or from other exceptional circumstances, the proper supply could not be given from the standard ferrule, the Commissioners should have the power of altering and enlarging the ferrule to suit the peculiarities of the locality, and I understood that a clause to this effect would be appended to the schedule. I would strongly urge that this is the better course to adopt, and that the section now under consideration should stand as it is; but when we come to consider the schedule, it may, if necessary, be altered, and a clause may be inserted, entitling the Commissioners, with the approval of the local government in exceptional cases and for special reasons, to enlarge the ferrule.

The Hon. Dr. Gooroo Dass Banerjee said:—After the admission made by the hon. member in charge of the Bill that the formula upon which the schedule of ferrules depends is not strictly correct, and that experiments are being made to test its accuracy, I think it will be very unsafe to pass this section of the Bill as it stands; for the result of the testing may show that the standard we have adopted as the basis of the schedule, viz., a supply of 16¼ gallons per minute through a ferrule half inch in diameter, is nothing near the truth, and that the real quantity is about the eighth part of that. In that case there will be no justification for saying that what we call the normal standard is the normal standard. Either the consideration of this question should stand over, or if the Council prefer to dispose of it now, we must accept the amendment of the Hon. Babu Kali Nath Mitter.

The HON. MR. MACAULAY said:—As regards the first amendment of my hon. friend Babu Kali Nath Mitter, I think the arguments of the hon. member in charge of the Bill cannot be disputed, and that the Council should resist the amendment. As regards the willingness of Sir Henry Harrison to accept the second amendment, I would ask the Council to consider what the effect of that amendment will be. It is perfectly clear that the existing scale of ferrules has resulted in a considerable waste of water by certain people to the disadvantage of other people. Some people get a great deal more water than they pay for, because they are able to intercept it, while others are unable to get even as much as they pay for. This is the result of the adoption of the present scale of ferrules. Still I do not think it can be fairly said the Commissioners will be willing to exercise the very invidious task of reducing the dimensions of ferrules, and therefore I think the Council should wait until they are in a position to fix the schedule of ferrules in such a way as to give a standard to which the Commissioners can apply themselves. I understood in Select Committee that we had practically decided that. We found that the existing ferrules were on too liberal a scale, that the Engineer to the Corporation was engaged in practically testing the correctness of the mathematical formula, and that his enquiries have not yet been completed. There remain only the questions whether we should now fix a scale of ferrules in the schedule, or leave it to the Commissioners to do so, or wait until we are in possession of the results of Mr. Kimber's investigations. I ask the Council to allow the consideration of this question to stand over during the time we are in Session, so that we may be in possession of fuller information before we come to prescribe any scale in the schedule.

The HON. MR. ALLEN said:—I would ask the hon. member in charge of the Bill to say whether it was not his suggestion that the question of the size of ferrules should be taken out of the hands of the Commissioners and embodied in the Bill by the Select Committee, and whether it was not in consequence of his having informed the Select Committee that he felt it perfectly hopeless to induce the Commissioners (who wanted a larger quantity of water than that to which they were entitled) to reduce the size of the ferrules, and that he wished a scale of ferrules to be inserted in the Act. At present the scale of ferrules is such that those who have been first in the field are able to take

shown by the indicator is actually delivered. But it is delivered to 13,000 or 14,000 houses in the town. Of these about 8,000 or 9,000 have a good supply, 2,000 or 3,000 have an indifferent supply, and 2,000 or 3,000 have a very bad supply; and these 2,000 or 3,000 persons have a very bad supply, because others take the water off before it reaches them. We had a very good practical test the other day. Out of 13 Commissioners who were present at a meeting of the Town Council only two of them, Mr. Simmons and Dr. Mahendra Lal Sircar, complained that they had a bad supply; and I believe every member of this Council, except the Doctor, would say that they have a fair supply. Mr. Simmons' house is situated in one of the worst quarters of the town. (St. James' Square) in relation to the water-supply, and for some reason the pipes there are so arranged and are of such a size as to act very badly indeed: and see how wide of the mark his comments are as read out by the Hon. Babu Kali Nath Mitter. Mr. Simmons is one of the most intelligent, hard-working and devoted members of the Corporation. The formula shows that he ought to get 16¼ gallons of water per minute, but it is a question of pressure, and he says (as has been stated by my hon. friend) he gets only 1¼ gallons per minute. All that that proves is that the pressure in his house is extremely bad. He has a tap 6 feet in height, therefore 6 feet of pressure goes in raising the water to the tap, and if the pressure there is only 7 feet, he can only get one foot of pressure. Applying the mathematical formula to this case, and assuming that the average quantity supplied is 16¼ gallons per minute on the 30 feet pressure, it follows that if there are no disturbing elements in the case, the supply to Mr. Simmons should be very small indeed. Making due allowance for the existence of some or all of the disturbing elements to which I have referred, the formula must be taken to be only approximately correct. My hon. friend knows that everybody wants the water quickly and at the same hour; is it not therefore perfectly plain that everybody cannot have what he wants, as the supply has been so arranged as to give the full supply not in one hour, but in three or four? It has often been suggested that we should give the supply at different parts of the town at different times, but that will give great cause of complaint, and will, moreover, involve a fundamental alteration of the scheme of the water-supply works. I have only to repeat that as regards the size of the ferrules I have no objection to leave it in the hands of the Corporation.

end, the pressure is not so good as it is elsewhere. Mr. Kimber is now engaged in completing experiments throughout the town with a view of testing the discharges; but there has not yet been time to tabulate the results and to examine them, but there can be no doubt that a ferrule of a certain size will operate very differently in different cases. By some mistake the section in the Bill does not stand in the way it was settled by the Select Committee; we directed that there should be a power of altering the schedule by the Commissioners in meeting with the sanction of the Local Government. We desired to introduce this power either in the section or in the schedule, but it has been left out of both. Seeing the uncertainty of the precise effect of a hard-and-fast scale of ferrules, I do think there must be a power of modifying the schedule in that way.

Then comes the further amendment of my hon. friend, that instead of inserting a scale of ferrules in the Act, it should be left to be determined by the Commissioners in meeting. I do not look on this proposal with any great disfavour. It will put a very hard task on the officers of the Corporation to persuade the Commissioners to adopt a reduced scale, for it is plain how very unwilling the Commissioners will be to face the question in the only way it should be faced, but it is a power which ought perhaps to rest with the Commissioners; and although it will be difficult to convince them of what is the right thing to do, I believe they will in the end be convinced. Therefore as Chairman of the Corporation I raise no opposition to the second portion of my hon. friend's amendment. It is a question for the Council to settle. It is not I, as representing the Corporation, who say that you must prescribe a schedule in the Act. Hard as the task may be, I am prepared to let the Commissioners settle it if the Council think fit, but it is a further question to consider how far we will be doing our duty to the public. This the Council must determine. If they are willing to leave the decision with the Commissioners, I do not object.

I must add one word as regards the allegation that 95 per cent. of the people complain of the scanty supply of water. This I deny *in toto*: 40 per cent. might be nearer the mark. There is not the slightest doubt of what the supply is; the capacity of the pumps is known. Every stroke that is pumped up is registered, and there is no doubt that the quantity of water

[*Sir Henry Harrison.*]

works are completed, they will give 7,000 or even 8,000 gallons. But, the effect of the amendment is to make it obligatory on the Commissioners to supply water to each person to that extent. How can we undertake to do so unless we can prevent others from taking more than they are entitled to have? There is no doubt that some persons are getting a supply equivalent to from 9,000 to 12,000 gallons per rupee, and as long as we cannot stop that, how can we guarantee to each person a supply of 5,000 gallons? The Select Committee thought I was too generous in proposing to fix the supply at 3,000 gallons: still we do think that under the proposed restrictions as to ferrules we can undertake to give 3,000 gallons. That seems on the whole a commendable concession, but we cannot undertake to do even that if we have not some surety that people are not taking more than their fair share. Therefore I cannot accept the first amendment.

Next as to the question of ferrules. This is a point in respect of which, by the unanimous agreement of all bodies who have been consulted, something must be done. We found ourselves bound not to overlook the unanimous appeal of all parties, and therefore we have carefully looked into the matter and examined the reasons why at present a good supply cannot be given to all persons. It has, I think, been shown to demonstration that the ferrules of the town are at present on too liberal a scale. I have consulted Mr. Kimber, the Engineer to the Corporation, and that point admits of no doubt. And yet how has it been accepted by my hon. friend? He seems to consider that, although the result is produced by a law of nature, yet I am in some way responsible for it. Is it right, when we try to combine forces and to cope with a serious difficulty, to hold back and decline to admit that the only solution which the laws of mathematics and hydraulics impose on you, is not the correct one? That attitude is taken up not only by my hon. friend, but by a large number of Commissioners. I am quite prepared to admit that it is a question of very great difficulty, because mathematically the formula can only apply under normal conditions. When you come to apply it to actual conditions, such as the pipes through the tortuous lanes and gullies in the town, the taps and bends throughout Calcutta, you must bring an enormous number of disturbing elements into the calculation. If there is a bend before or after the connection, if instead of going from one street to another there is a dead

to which I have referred it transpires that the real cause of the scanty supply to several persons is what is put forward by the hon. member in charge of the Bill, he may be able to bring before the Commissioners a proposition for the reduction in the size of ferrules. If he can clearly show that that is the cause, there is no reason to suppose that he will not succeed in doing what he is attempting to do by the arm of the law. If the size of the ferrule is fixed by law, the result will be that in the absence of any enquiry this Council will take upon itself to say that some persons are getting more water than they are entitled to. That is my objection to fixing the size of the ferrules by legislative enactment. It does not go to the principle of the proposal, but it is whether the legislature should fix the size of the ferrule without being in possession of any reliable data. It is a question of pure justice.

The HON. SIR HENRY HARRISON said:—I find the speech of my hon. friend very difficult to answer, because, instead of having brought out the essential points of the questions before the Council, he has directed his speech to an impeachment of the action of the Executive of the Corporation on the water-supply question. Naturally it is somewhat embarrassing for me to answer him in reply to this impeachment without saying anything, but I do not think I have the right to inflict upon the Council a disquisition upon the several matters which have arisen between the Commissioners and their Engineer. All I ask the Council to consider is the present issues which we have to decide to-day. It remains for me to point out what the issues are—a task which my hon. friend himself should have undertaken. I am very glad that he has divided his amendment into two parts, as it consists in fact substantially of two amendments—one that the Corporation shall be bound to supply to the rate-payers for every rupee of the tax paid by them 5,000 instead of 3,000 gallons of filtered water; the other that the supply should be given through a ferrule, the size of which is to be determined by the Commissioners in meeting, instead of being laid down by law. Taking the first question, he has twitted me with claiming generosity. I never claimed any generosity whatever in this matter. I said you can easily give 3,000 gallons per rupee, instead of 1,500 as heretofore, and thus show that there is no intention to diminish the supply. But would it be equally safe to guarantee 5,000 gallons? The total supply may be said to be sufficient to give 5,500 gallons per rupee, and when the extension

certain isolated sections of the town which he may be able to select. The object of the scheme should be to furnish as far as possible the following information:—

(1). Period during which the supply is given.

(2). Pressure maintained during that period.

(3). Area of ferrule orifices in each isolated district.

(4). Population of each district.

It was hoped that the Engineer would be able to prepare this scheme on an early date. But that early date has not yet come. The Commissioners have been anxiously waiting for this scheme, but it has not yet been placed before them. If the information which has been asked for was available in a reliable form, there would be no difficulty in at once ascertaining what are the causes of the scanty supply of water, instead of giving credit to the vague general statements made, that persons are getting more water than they should have, or that a great deal of water is wasted. I submit that when the Commissioners are themselves enquiring into this matter, and when their executive officers have not placed the information before them up to the present moment, although it was called for so far back as the 19th November last, it will be a mistake to proceed now on the basis that people are getting more water than they are entitled to, or that there is a great deal of wastage. My motion is that instead of 3,000 gallons of water, 5,000 gallons should be supplied for every rupee of tax paid, the actual cost being less than at the rate of 5,500 gallons. That is the least quantity of water to which the rate-payers are fairly entitled, and if they are fairly entitled to that quantity, why should the law reduce it? My hon. friend speaks of his generosity in giving 3,000 gallons when the existing law only allows 1,500 gallons. Is there any generosity in giving 3,000 gallons when the rate-payers are entitled to 5,500 gallons? They are entitled to have more, and therefore they should have more. For the convenience of discussion I may state that my amendment should be divided into two parts.

My first amendment is to substitute in section 155, lines 3 and 4, "five thousand gallons" for the words "three thousand gallons." And my second amendment is that, in lines 9 and 10 of the same section, the words "through a ferrule, the size of which is to be determined by the Commissioners in meeting" be substituted for the words "through a ferrule of the size indicated in the ninth schedule." If in the course of the enquiry

People require their supply within a given time, and care should be taken to give it to them within that time. It will be no satisfaction to tell the rate-payers that whilst you are now getting a given supply within one hour, by reducing the size of the ferrule, you will not get less than that quantity, but you will get it within three or four hours. This will be no satisfaction, because a supply within three or four hours will not serve their purpose. It is within a certain time that water is needed, and it must be supplied within that time. The whole of my hon. friend's memorandum is based on certain mathematical formulæ set out in paragraph 9, and it shows that in one minute 16¼ gallons of water can be obtained if a tap of half inch diameter is left open. This statement has been tested by a friend of mine, a European gentleman living in the European quarter of the town. I have in my hand the letter in which he gives the result of his testing and which he has given me permission to use, and the fact is that he got only 1¼ quarter gallon of water by leaving the tap open uninterruptedly for a whole minute. He says he has two taps—one 18 feet above the ground level from which he got no water at all, and the other only six feet high from which he got the quantity specified. If that is so, what is the utility of my hon. friend's formulæ? Before the formulæ can be applied, there must be a certain state of things existing to satisfy the requirements on which the formulæ is based. If the main has not been satisfactorily laid, if the inclination of the main is different from what it should be, if the connection has several bends,—all these things will have a material effect on the supply; and until all these facts can be ascertained in respect of every case, the formulæ cannot be relied upon. As I have said, the complaint of the scanty supply of water is a just one, and on the 12th of November last a motion on the subject was brought before the Town Council, and a Committee was appointed for the purpose of making a thorough enquiry into the matter. On that Committee there were persons some of whom by virtue of their professional position were highly qualified to give an opinion in a matter of this kind. On the 19th of November this Committee met, and on that day, after a good deal of discussion, the following Resolution was passed at the instance of Mr. Spring:—

"That the engineer be requested to prepare a scheme for the Committee's approval for ascertaining in a reliable manner the actual quantity of water which passes clearly into

for every thousand gallons. In providing filtered water to the town the Corporation was not acting on commercial principles. They took the rate-payers' money for constructing the works and for providing a Sinking fund for the liquidation of the loan, and it could not therefore be said that they are selling water to the town. They are only giving the town what they are entitled to have, and if we give them 5,000 gallons for the rupee they will not get more than they have paid for. My hon. friend complains that the standard of 1,500 gallons has become a dead letter, and it is quite right that it should. Why should the people who have paid for the water-supply purchase the water at an enormous profit to the Corporation? There is no justice or sense in that. The original standard was fixed under a total misconception of facts: the facts were erroneously stated to the then Council. But if by equity, good conscience and justice the rate-payers of the town are entitled to have 5,500 gallons for every rupee of tax they pay, I do not see why they should not have it. In fact it is only right they should have it.

An important question is raised in paragraph 7 of my hon. friend's note. He says—

"So far therefore as command over the water to the individual is involved, and loss of command to the Commissioners, this depends on the size of the ferrules; and it is the simple fact that the scale of ferrules sanctioned has been such that it has entailed entire loss of command over the water-supply, and if the Commissioners are to be responsible for the pressure of the future supply, they can only fulfil this duty if they recover their command by a wholesale reduction in the size of the ferrules."

If it is a fact that the Commissioners have lost command over the water-supply, is it not strange that there should be a general complaint all over the town as to the scanty supply of water. If that shows anything, it shows that the people have not got the command over the water which is stated in the note; they cannot get the water which they want, and therefore there is this outcry and howl of indignation on all sides. If an enquiry be made from 100 persons, probably only five persons will say that they get a fair supply; but 95 per cent. will complain that they do not get a proper supply. My hon. friend shakes his head, but I am quite willing to leave it to the rate-payers to say whether what I have stated is not perfectly correct. The effect of the proposed reduction in the size of the ferrules will be that within a given time the supply will be great deal less than it is at present.

Mr. Buckley, on looking over the various papers in connection with the water-supply scheme, advised that it would be better to have an open cut instead of a brick culvert. The two questions were discussed in all their phases; they were submitted to experts, and their opinions were obtained. But at the very last moment the Chairman suggested that a 48-inch iron main would serve the purpose best. I was one of the Commissioners who opposed this suggestion on the ground that the supply would not be sufficient for the town, that it would be necessary to have a still larger supply than what was contemplated, and that it would be a mistake to be satisfied with a 48-inch main. I was in the minority. But at my instance it was agreed that the main should be so laid as to be capable of bearing a pressure of 100 feet. Perhaps it would be well to explain what is meant by a pressure of 100 feet. The water was to be raised to a height of 100 feet at Pultah and then forced into the main, instead of being allowed merely to flow down by gravitation. Up to a very late period the Commissioners were under the impression that the main is being laid so as to be capable of bearing this pressure; but it was all a delusion. When the time came for testing the main, it was successfully pointed out that it would be more economical to have a third main than to run the main under a pressure of 100 feet. The majority of the Commissioners adopted that view, and the main, after undergoing a certain test which by all was admitted to be insufficient if the main was to be worked under a pressure of 100 feet, but sufficient if it was not to be worked under that pressure, was put into use. There the question remained. Therefore I say that the question of the water-supply is not free from difficulties; it is not one in regard to which the public would be justified in putting implicit confidence in the statements of the executive officers. It is one which should be narrowly enquired into before any change in the law is adopted. The note of my hon. friend shows that, whereas under the present law the maximum supply to which a person is entitled is at the rate of 1,500 gallons for every rupee of taxation paid by him, the average present supply to the whole town is at the rate of 5,500 gallons to the rupee; but he proposes to allow only 3,000 gallons for the rupee. Is this equitable or just? I say that the people are not getting sufficient for the money they are paying. My hon. friend admitted at the last meeting that the average cost of filtered water was 2 annas or 2½ annas

discussed and settled, it is absolutely necessary that independent opinion should be had from experts eminently qualified to advise in a matter of this kind. Undoubtedly the note submitted by the hon. member in charge of the Bill is a valuable document, and it should deserve consideration as coming from one who by virtue of his position is qualified to express an opinion; but no further. It should not be accepted as conclusive on the point and as justifying this Council in making a change in the law which must operate with very great disadvantage to the poorer classes. The literature of the water-supply of the town is rather extensive, and any one who has studied it will be struck with some of the features that have exhibited themselves from time to time, and generally it will afford this instruction, that the executive officers of the present Corporation and of the late Justices, who were entrusted with the duty of supervising the works, have not been able to give the satisfaction which was expected. That position I think even my hon. friend the member in charge of the Bill will admit. It is a notorious fact that when the 42-inch main was laid by the Justices, they did so under an agreement by which an eminent firm undertook to lay the main so as to bear a certain amount of pressure. When the work was completed, pressure was applied to a portion of the main and the whole thing burst; and on advice being taken from experts, they unanimously advised the Justices not to test the main at all, but to take it over as a bad job. The result was that the main was taken over without having been laid in the way contracted, and it was not capable of bearing the pressure which it was intended to bear. Again when the extension of the water-supply was taken into consideration, various questions came up for discussion. Questions of great importance were submitted to experts; opinions were obtained, and ultimately the Committee of the Commissioners appointed to consider the subject submitted a report which was confirmed by the Commissioners, and the works were begun. But there was one striking feature above all others. When the extension works were first contemplated, the advice of the Engineer was that there should be a brick culvert of 60 inches diameter, and the Committee then appointed adopted it. It was placed before the Commissioners in meeting, who sent it back for further consideration, and some time after, when Mr. Kimber, the present incumbent, obtained leave to go to England, Mr. Buckley was appointed to act for him.

As far as I understand the obligation, it has reference only to the contribution on account of Police. Such relief, without going to the benefit of the rate-payers, was originally intended to go to the benefit of the town; but since the question of the amalgamation has come up, it was decided to appropriate it for the improvement of the added area. That has been throughout the understanding, and I am quite willing that that understanding should be made clear by the law to save any misunderstanding hereafter. But if it is put in the form proposed, without having regard to clause (3), it might be that it will be obligatory to spend five lakhs on the Suburbs, which is far more than what was contemplated.

The HON. SIR HENRY HARRISON said in reply:—It appears to me that clause (3) must stand on its own merits and it was passed without objection, being mainly taken from the existing law. Instead of an obligation to spend Rs. 1,50,000, as in the existing law, on drainage, the Corporation is required to spend Rs. 2,00,000 on drainage and bustees. No doubt something should be done to drain the Suburbs. How much is a difficult question, whether Rs. 200,00,000 or 50, 40 or 30 lakhs, which is an inside estimate. The system of drainage remains to be decided on the best advice available. Still a considerable sum must be spent for a considerable time, and that is the reason why bustee improvement is thrown in with drainage. My hon. friend is correct in supposing that it would mainly be spent on the added area. The interest, &c., on the sums thus borrowed will be part of the three lakhs

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that, in section 155, the words "five thousand gallons" be substituted for "three thousand gallons"; and that the words "through a ferrule, the size of which is to be determined by the Commissioners in meeting" be substituted for the words "through a ferrule of the size indicated in the ninth schedule."

He said:—The matter which I have to place before the Council is one of very great importance, and I have no doubt that it will receive from my hon. colleagues that consideration which it fully deserves. The question, as I understand it, is this. Whether the supply of water to the town within a given time should be reduced, for, broadly speaking, the reduction in the size of the ferrule will have that effect. Before a question of this sort can be fairly

Member thinks that the Corporation should have an obligation imposed on them with reference to all buildings, whether dangerous to the public safety or also to the inmates, I draw attention to the provisions of section 233, so that members may have an opportunity of proposing an amendment if desired.

In accordance with the instructions received from the Government of India, which your Honour explained to the Council two meetings ago, in the amendment which I now propose by way of addition to section 37 of the Bill I have endeavoured to embody the views and wishes of the Government of India. It makes no change in the intentions of the Government in framing the law, but it makes it obligatory upon the Corporation by law always to spend three lakhs of rupees annually—equivalent approximately to the town police rate—on the improvement of the added area. The following amendment does nothing more than reduce to words the obligations which it is always understood that the Corporation would undertake. Accordingly I move that the following clause be added to section 37 :—

"(7). Devote to the improvement of the area newly added to Calcutta by this Act not less than three lakhs of rupees annually from the receipts of the revenue funds described in sections one hundred and two, one hundred and three, and one hundred and five of this Act :

"Provided that the instalments of interest and reserve fund payable on any capital sum expended under clauses (3), (4) and (5) of this section for the improvement of that area shall be taken as part of the three lakhs of rupees."

The Hon. Babu Kali Nath Mitter said :—As the amendment is worded, it is not open to any other objection than this. By an earlier clause (3) of the section an obligation is imposed on the Commissioners to spend two lakhs for drainage and bustees. So far as the drainage works of the town are concerned, they are almost completed now, and probably in another year or two there will be no appreciable expenditure on those works. And as regards the improvement of bustees, I believe in the course of another year the improvements contemplated three years ago at an estimate of Rs. 7,50,000 will also be completed. Therefore the greater part of these two lakhs will after a year or two be available for the improvement of the added area. That being so, is it desirable to make it obligatory to spend a further sum of Rs. 3,00,000, making Rs. 5,00,000 in all, for the improvement of the added area?

Council, and in respect of which decisions have been come, seeing that a Select Committee, consisting first of seven and subsequently of nine out of twelve members of the Council, have already through two Sessions made two separate careful investigations and examinations of the Bill—I say that, considering the constitution of the Council with relation to the Select Committee, I thought it would be scarcely consistent with proper respect towards the Council if I were to ask them without fresh arguments being put forward to reconsider their decisions. At the same time, if I should hear of any desire on the part of the Council to take up any of the points already decided, I shall not let any technical objection stand in the way. I think it right that this should be mentioned to you and the memorial placed before you in case the Council wishes to express any views or desires on the point.

The Hon. Sir Henry Harrison moved that the clauses of the Bill to consolidate and amend the law relating to the Municipal affairs of the Town and Suburbs of Calcutta, as further amended, be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison said:—I may be out of order, but perhaps your Honour will not object to my saying a few words on one point of the Building Regulations, with reference to section 233 and the recent accident in Kyd Street, so that if any members consider an amendment of the law ought to be made, they should have an opportunity of bringing it forward. A similar accident occurred some time ago, and the Coroner's jury having made some remarks as to the functions of the Municipality with respect to such buildings, we took legal advice, and the opinion clearly expressed by the Solicitors to the Corporation was that the present section does not impose any obligation of an inquisitorial character with regard to buildings which are not dangerous to a highway. The Government thought it expedient to take further opinion on the subject, and the opinion of the learned Advocate-General was to the same effect. Therefore in preparing this Bill it was fully considered whether it was desirable to impose any further obligations, and, as far as I am concerned, it was deliberately decided that it was not expedient to do so. I wish to draw attention to the distinction between watching over the safety of all buildings and of those which are absolutely dangerous to the public safety. But in case any Hon.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *and* 25 *Vic., Cap.* 67.

THE Council met at the Council Chamber on Wednesday, the 18th April, 1888, at 11 A.M.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding.*

The HON. H. J. REYNOLDS, C.S.I.

The HON. C. P. L. MACAULAY, C.I.E.

The HON. T. T. ALLEN.

The HON. SIR HENRY HARRISON, KT.

The HON. SIR ALFRED CROFT, K.C.I.E.

The HON. MOULVIE ABDUL JUBBAR.

The HON. BABU KALI NATH MITTER.

The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

The HON. C. H. MOORE.

The HON. DR. GOOROO DASS BANERJEE.

The HON. H. PRATT.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

HIS HONOUR THE PRESIDENT said:—Before we commence the work of the day, I think I ought to inform the Council that yesterday I received a deputation of some leading gentlemen of Calcutta, who were deputed on the part of a public meeting held last week at the Town Hall to submit a memorial protesting against a number of the provisions of the Municipal Bill that is before you. Many of the points to which they have objected have already been decided by the Council; there are others which are still waiting for the Council to consider. A copy of the memorial and of my reply will be laid before you to-day, but I should tell you that in my reply I thought it necessary to say, in regard to those sections which have already been debated by the

[*Babu Kali Nath Mitter.*]

The HON. BABU KALI NATH MITTER said in reply:—My argument is that n necessity has been shown for the introduction of such a provision. It is notorious fact that one-third of the town has not yet been piped, and it migh seem invidious to make legal provision for the supply of water to the shipping when a large proportion of those who have contributed to the expense of th water-supply have not yet been supplied. Charity begins at home, and I think that matters of this kind ought to be left to the discretion of the Commissioners

The motion was put to the vote and negatived.

The Council was adjourned to Wednesday, the 18th April, 1888.

H. A. D. PHILLIPS,

for Assistant Secretary to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 1st May, 1888.

[*Babu Kali Nath Mitter; Sir Henry Harrison.*]

The HON. SIR HENRY HARRISON'S motion that, after section 136, the following new section be inserted:—

"136A. All such objections shall be entered in a register to be maintained for the purpose, and on receipt of any objection, notice shall be given to the objector of a day and place when his objection will be investigated.

"On the day and place notified, the Chairman or Vice-Chairman (if the case is referred to him by the Chairman) shall hear the objection in the presence of the objector if he shall appear, or the Chairman or Vice-Chairman may, for reasonable cause, adjourn the investigation. When the objection has been determined, the order passed shall be recorded in the register of objections, together with the date of such order."

was put to the vote and carried.

The HON. SIR HENRY HARRISON'S motion that, for section 137, the following be substituted:—

"Any person dissatisfied with the orders passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the house, land, or bustee land is situated. Such appeal shall be presented to the Court of Small Causes within thirty days of the decision of the objection under section one hundred and thirty-six A, and shall be accompanied with an extract from the register of objections containing the order objected to. No appeal shall be admitted unless an objection has first been taken under section one hundred and thirty-six."

was put to the vote and carried.

The HON. SIR HENRY HARRISON'S motion that, in section 138, for the words "two last preceding sections" the words "last preceding section" be substituted, was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 151 be omitted.

He said:—This provision is not in the existing law. The water-supply to the shipping is working satisfactorily and no friction has arisen, and I do not see why a section of this sort fixing a maximum charge of Rs. 5 per thousand gallons should be introduced when Rs. 8 per thousand gallons is now charged without complaint. At present the Port Commissioners get all the water they want, ships are supplied with water, and I am not aware that any difficulty has arisen.

The HON. SIR HENRY HARRISON said:—This section was inserted in the interests of the Port Commissioners. At present we charge Rs. 8 per thousand gallons, but the price is no doubt excessive when the cost of the water is from 2 to 2½ annas per thousand gallons, although the cost of putting it on board is somethi. considerable. I think on the whole Rs. 5 per thousand gallons is really a very liberal allowance.

assessment appeals. Under these circumstances, I say that the adoption o my hon. friend's amendment will be a gross injustice to the rate-payer of the town, and I hope the Council will, at any rate, not alter the existing law in this respect. If the report of Nundolall Bose's case is carefully read, it will be seen that it does not help my hon. friend's contention. The Judges there came to the conclusion that the valuation on which the assessment was made is wrong, and therefore they allowed the appeal. Therefore there is no decision of any Court which will justify the Council in taking this matter out of the hands of the Commissioners. They are responsible for the well-being of the town, and I cannot understand why they should not b entrusted with the assessment of house property. I can understand the principle of their supersession under the control section of the Bill, but I cannot understand their supersession in the matter of hearing assessment appeals.

The HON. SIR HENRY HARRISON'S motion that section 135 of the Bill be omitted, being put, the Council divided:—

Ayes 8.	*Noes* 5.
The Hon. H. Pratt.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. C. H. Moore.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Sir Alfred Croft.	The Hon. Babu Kali Nath Mitter.
The Hon. Sir Henry Harrison.	The Hon. Moulvie Abdul Jubbar.
The Hon. T. T. Allen.	His Honour the President.
The Hon. C. P. L. Macaulay.	
The Hon. H. J. Reynolds.	
The Hon. the Advocate-General.	

So the Motion was carried.

The HON. SIR HENRY HARRISON'S motion that, for section 136, the following be substituted:—

"Any person who is dissatisfied with a valuation made under this Chapter shall, in the case of houses, within fifteen days after the publication of the notice referred to in section one hundred and thirty-two, or after receipt of the notice referred to in section one hundred and thirty-three when such notice is received after the publication of the notice referred to in section one hundred and thirty-two, and in the case of bustee or other land within fifteen days after the receipt of the special notice referred to in section one hundred and thirty-four, deliver at the office of the Commissioners a notice in writing stating the grounds of his objection."

was put to the vote and carried.

doubt a very convenient one as far as the executive officers of the municipality are concerned ; one officer assesses, another deals with objections, and then the appellant is driven to the Small Cause Court. The annoyance and trouble and expense of litigating in that Court are so great that in many cases the parties will be deterred from instituting appeals. I am sure the Council will not in a matter of this kind, after passing a very stringent clause as to the assessment of house property, place people in a position not to be able to obtain justice. It is all very well for my hon. friend to say that that will be the best course. He said there will be a continuity of policy. We have had instances when the Corporation has been either plaintiff or defendant in the Small Cause Court. In one case it was a question of taking out a license, and some very strong remarks were made by the presiding Judge, and there was another case where another Judge made similar remarks. Therefore the result will depend very much upon whether the case will always come before a particular Judge before you can say that there will be a continuity of principle. If the Commissioners are unfit to be trusted to hear these appeals, they are not fit to be trusted with the administration of the affairs of the town. My contention is that the executive officer having done his duty, the hearing of appeals should be left to the Commissioners. Ordinarily the number of Commissioners who sit to hear appeals is five, and not three. Five Commissioners are chosen by ballot, and that is done because it was said that if a person knows beforehand who are to hear his appeal, probably the Commissioners who are going to sit will be subjected to the annoyance of receiving personal solicitations from the appellant. That rule was therefore established and is in force now. It seems to me that of all persons the persons who have to deal with these appeals are the very persons who, by virtue of their p[illegible], are far better able to judge of the value of property than any Judge [illegible] Small Cause Court. If the theory is that they will not do justice, [illegible] I say that the elective system should not be retained in Calcutta. If there is this fear lurking in my hon. friend's mind, he should be the last person to advocate the elective system. Large sums of money are expended on the advice of the Commissioners for the benefit of the town, and yet these persons are considered by my hon. friend not fit to decide whether the value of a particular property is Rs. 5,000 or Rs. 50,000. My deliberate opinion, formed from an extensive and intimate knowledge of the value of house property in the town, is that the Commissioners are the best persons to decide

very hardly on the owners of residential houses. I have said before and I repeat that the hardship of dancing attendance on the Small Cause Court will be intolerable. Contested cases will not be decided in that Court in less than four or five months; sometimes they take years, and in my own experience I know of one case which took more than two years to decide. The cases in the Court are so numerous that it is impossible for the judges to do more than they are doing; and that being so, when a case of assessment comes on, the first thing which will infallibly happen will be its postponement for two months. That is the first satisfaction the appellant will have, and I cannot say in the ordinary course how many postponements will be made, and on each of these occasions a pleader will have to be engaged. I ask the Council whether it is right or just to drive persons to a Court not so constituted as to be able to deal with these cases in a proper manner. The English precedents referred to by the Hon. Member show that these appeals are placed before Justices. I ask how any continuity of principle can be maintained under such a procedure, as the Justices hearing appeals will not always be the same persons. Here in 1863 the duty of administering the affairs of the town was entrusted to the Justices of the Peace, and the assessment appellate benches were formed from amongst them. In 1876, on the amendment of the law, Commissioners were substituted for Justices, the change being only one in name. It is a singular fact that complaints as to the decisions of assessment appeals are heard here for the first time; they are not made the subject of complaint in the administration reports published from year to year. The Chairman never pointed out to the Commissioners that appeals are not conducted as they should be. On the contrary, judging from the fact that the number of appeals is very small in proportion to the number of assessments, I am emboldened to say that the mischief the Hon. Member speaks of does not exist. He has referred to a few cases to show that reductions have been made in the assessments, and he asked the Council to infer from that, that appeals are not conducted in a fair and proper manner. I submit that two or three cases or even five will not justify any tribunal to determine whether appeals are conducted fairly or not. If the public are under the impression that they have only to appeal to get their assessments reduced, how is it that the proportion of appeals is so limited? That one fact goes to the root of my hon. friend's argument. It shows that there is no such belief in the minds of the people. The belief is quite the other way, viz., that the appellate benches will not admit appeals unless there is real ground of complaint. The method proposed by my hon. friend is no

the Chairman or the Vice-Chairman will be made members of the Assessment Bench. The feelings of the different classes of the community are so widely different and so incompatible, that I may almost say that it is a farce to leave the decision of these cases to Commissioners chosen by chance, who would take an entirely different view of the equity of the case if they belong to one class, and an entirely different view if they belong to another class. My object is simply to do justice to all classes of the people.

The HON. BABU KALI NATH MITTER moved that, in clause (*a*) of section 135, the words "the Chairman or Vice-Chairman and" be omitted.

He said:—As regards the amendment of the hon. member in charge of the Bill, my first objection is this, that there is no provision in the Presidency Small Cause Court which confers jurisdiction in such cases on that Court. I appeal to the hon. and learned members, the Advocate-General and the Legal Remembrancer, to say whether it is so or not. [The Advocate-General—Opinions are divided: it is extremely doubtful.] I think the question is very doubtful. [Sir Henry Harrison—Numbers of cases have been decided under the provisions of all the Municipal Acts.] I went through the Presidency Small Cause Court Act on a recent occasion, and I found that in the Chapter on Jurisdiction there is nothing in my judgment to show that the Court can be compelled to take up a case of this kind. The Hon. the Advocate-General is pleased to say that opinions are divided; two eminent lawyers came to one opinion and two to another. Therefore I am right in saying it is a doubtful question. In the second place the constitution of that Court is such that it has nothing to do with questions relating to immoveable property. The Judges who preside in that Court have not the experience necessary to enable them to determine the value of real property, because questions of that kind never come before them. They have to deal with questions relating to moveable property, matters of contract, and so on; and it is not a Court which in my humble opinion is capable of doing justice in cases of this kind, and it will not be the best tribunal to select for the purpose. When the Bill was in Select Committee, I intimated my intention to move for the omission of the words "Chairman and Vice-Chairman" which were inserted on the motion of the hon. member in charge of the Bill, without in any way intimating that he reserved his amendment for the consideration of the Council. Not a word was then said by him as to the hearing of these appeals being taken out of the hands of the Commissioners. The section regarding the mode of assessment will operate

assessments are fair, and the decision of the Surveyor of taxes is made binding on the ultimate appellate bench of Justices from the decision of various Committees, unless it can be proved to be wrong. So the whole burden of proof is thrown on those who oppose the judgment of an experienced officer. The assessor here says I am thrown over for no reason. I have seen the house; it has so many large rooms. The appellant says they are small rooms, I cannot afford to pay. Instead of an assessment of Rs 180 which the assessor proposes, the Assessment Bench fixes Rs. 120, and it is settled. Is it possible for assessments to be carried on in this way on any fair and satisfactory manner? And some continuity of principle is needed. The system I propose, is, I am convinced, the only one if you want to have Calcutta fairly and equally assessed. It is true that in Select Committee I accepted the Chairman or Vice-Chairman being a member of the Bench, and as a makeshift that would be something. He would be the principle of continuity, and that would do something. But I have only to appeal to the discussions of the last few days and ask you, looking to the extreme divergence of views, is it possible that a tribunal constituted by haphazard in this way can be an equal tribunal? Would it not depend on the lot whether an appeal would be decided on one way or the other? My hon. friend says he is confident that if an appeal is made to the Commissioners, they will endorse his views. He is right. But either that view is right or it is wrong. I say that it is wrong, and that from the very nature of the circumstances the Commissioners are disqualified from being a good tribunal. In a matter between class and class we choose a fair and impartial officer to decide. It is not a question of Municipal convenience or expediency. It is simply a question of justice between man and man, and is it fair to let the question depend upon the opinions of three Commissioners chosen by lot? That is not at all fair. The work of the Assessment Bench is judicial work, and must be made over to an officer who feels the responsibility, and who has constant experience. Therefore I am satisfied that if you wish to do what is right, you will accept the system of appeals which has always been in force in Bombay. There the Municipal Commissioner, an Executive officer, issues most elaborate instructions for the guidance of the assessing officer, and he is the person to whom the appeal comes, and if the appellant is dissatisfied, he goes to the Small Cause Court or to the Presidency Magistrate there. That is the system I wish to adopt in Calcutta. I am quite satisfied that it will be very fair, and that the assessments will be much more equal. If the Council is unwilling to adopt this system, I hope the section in the Bill will be allowed to remain by which

another page the results are remarkable. In the Chitpore Road six houses are assessed. The first is a new assessment, which the assessor fixes at Rs. 1,800; the Committee reduces it to Rs. 1,200. In the next case the assessor fixes Rs. 3,000; the Committee reduces it to Rs. 1,200. In the case of the next house, formerly assessed at Rs. 720, the assessment is raised by the assessor to Rs. 900; the bench lower it to Rs. 600. In the next the former assessment was Rs. 480. The assessor raises it to Rs. 900. The bench reduce it to Rs. 360. In the next the former assessment was Rs. 360; the assessor raises it to Rs. 480. The assessment is reduced to Rs 240. The last case is that of a new house which the assessor values at Rs. 3,000; the bench reduce it to Rs. 1,200. I do not select these as average cases; they are no doubt extreme, but can any officer be expected to do his duty according to principle when the opinions he forms are upset in this manner, although he is a most experienced officer? I have often asked the assessor what he thinks is the best remedy, and it is instructive to hear what he says. One of his suggestions is, that the assessment benches should be obliged to give their reasons in all cases where they admit appeals or modify the assessments. The second suggestion is, that they should be required personally to satisfy themselves by seeing the house which has been assessed. For myself I do not think that the remedy lies in any of these courses. It is true that in England there have been Assessment Committees of two kinds. First, in parishes, introduced in 1837, and at first they were highly thought of. But actual experience showed that exactly the same objection applied there as here. It was found that their decisions were unequal and commanded no respect, and now they have been nearly discarded, and, as far as possible, not resorted to. Then there were Assessment Committees appointed by the Unions, and the object here was different: it was to check the partiality of officers in their own parishes. In 1869 an assessment law was passed for London under which the system of appeals was very elaborate. There was an Assessment Committee, whose functions were relegated to the hearing of objections, totally different from the supreme appellate benches here. After the assessments are made, the Assessment Committee revises them; then they are ready for appeals, and the rule is that anybody can appeal. Our idea is that only the owner of the house assessed may appeal. In England if a person's neighbour is under-assessed the aggrieved person may appeal. And the overseer of the parish may also object, and above all an officer appointed by the Commissioners of Inland Revenue, called the Surveyor of Taxes, and it is his duty to go round and see that the

(4). That, for section 137, the following be substituted:—

"Any person dissatisfied with the orders passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the house, land, or bustee land is situated. Such appeal shall be presented to the Court of Small Causes within thirty days of the decision of the objection under section one hundred and thirty-six A, and shall be accompanied with an extract from the register of objections containing the order objected to. No appeal shall be admitted unless an objection has first been taken under section one hundred and thirty-six."

He said:—First with regard to section 135. I have for a long time past thought that the present system of assessment benches is utterly unsound. In Select Committee it was known that my hon. friend would move that from clause (*a*) the words "Chairman or Vice-Chairman and" be omitted, and as we were desirous of getting on with the Bill, I suggested that he should bring forward his motion in Council, and I reserved my amendment also. It is an amendment in principle to be considered on its own merits. The present system is that a person aggrieved has a right of appeal to a bench of three Commissioners or to the Small Cause Court, and the former is always exercised. The effect of this is that the assessor knows perfectly well who is the controlling authority. The closing remark of my hon. friend in the last debate was that if the assessor did his duty no inequalities of assessment would happen. Is this remark either just or true? The assessor cannot rise above the body which controls him. If he knows the assessment will be revised on one principle, naturally he cannot be expected to make his assessments on any other basis. The proportion of appeals is small, as he generally persuades people to accept his assessments. He knows perfectly well what system of assessment will ultimately prevail, and he adapts himself to it, and it is understood that houses occupied by their owners will be assessed on the rent which another tenant can be found to pay for it, and therefore the assessor assesses these houses on that principle. So far from the assessment bench not usually modifying what the assessor does, the fact is precisely the opposite. I have added up two pages of assessment appeals taken haphazard. In one of them there are 29 cases, and I find that the assessment was modified in 18 cases, and the objection fully allowed in 7 and disallowed in 4 cases only. Where there is an old assessment, and it is retained or reduced, I call that a rejection of the assessment *in toto*; where there is a new assessment, it is hard to say whether it is rejected or modified. In the next page 5 assessments are upheld out of 25; 19 are modified, and the other one, the objection is maintained in full. Again in

of assessments a great deal more will have to be taken in hand in one year than in another. Therefore I wish to give a power of re-arranging these assessment districts as may be convenient, and to allow an assessment which has terminated to go on for another period, or if the period happens to be a long one to re-assess a district for a shorter period. Suppose the assessment of a certain portion of the new area terminates inconveniently, and that it is desirable that it should be re-assessed, say, in 1892, it will be for the Commissioners to say, we will continue the existing assessment till 1892, or we will make a new valuation up to 1892. This is a new power which it is proposed to give to enable the assessments to be properly carried out.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison said:—I propose to discuss together the following four amendments to be moved by myself for the omission of section 135 of the Bill, the substitution of a new section for section 136, the insertion of a new section after section 136, and the substitution of a new section for section 137, as well as the amendment to be moved by the Hon. Babu Kali Nath Mitter for the omission from clause (*a*) of section 135, of the words "the Chairman or Vice-Chairman and." My amendments run thus—

(1). That section 135 be omitted.

(2). That, for section 136, the following be substituted:—

"Any person who is dissatisfied with a valuation made under this Chapter shall, in the case of houses, within fifteen days after the publication of the notice referred to in section one hundred and thirty-two, or after receipt of the notice referred to in section one hundred and thirty-three when such notice is received after the publication of the notice referred to in section one hundred and thirty-two, and in the case of bustee or other land within fifteen days after the receipt of the special notice referred to in section one hundred and thirty-four, deliver at the office of the Commissioners a notice in writing stating the grounds of his objection."

(3). That, after section 136, the following be substituted:—

"136A. All such objections shall be entered in a register to be maintained for the purpose, and on receipt of any objection, notice shall be given to the objector of a day and place when his objection will be investigated.

"On the day and place notified, the Chairman or Vice-Chairman (if the case is referred to him by the Chairman) shall hear the objection in the presence of the objector if he shall appear, or the Chairman or Vice-Chairman may, for reasonable cause, adjourn the investigation. When the objection has been determined, the order passed shall be recorded in the register of objections, together with the date of such order."

The Hon. Dr. Gooroo Dass Banerjee moved that, in line 14 of section 122 for the figure "5" the figure "4" be substituted.

He said:—I have already explained to the Council the reason of this amendment. The reason is that 5 per cent. is not anything like the profit which is likely to be made where the house is not built for letting purposes but is the dwelling of the owner. The profit is much nearer 4 per cent. than 5. And if that is the case, there is no reason why the Council should adopt an arbitrary percentage instead of the real one, viz., the value of the property to the owner. In the course of the discussion on the last amendment, it has been abundantly shown that in the Northern Division of the town, house property does not bring anything like 5 per cent. on the cost price. Why, therefore, should we take 5 per cent. as the basis of valuation? It is only by adopting the figure "4" that we can do anything like justice. The adoption of the figure "5" does not rest on any principle of justice unless we hold that justice requires that a man must be taxed uniformly on capital whether it is sunk profitably or unprofitably. We may as well say that the same percentage of valuation must be taken on property drowned in a river within the municipality.

The Motion being put, the Council divided:—

Ayes 4.	*Noes* 9.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The Hon. Sir Henry Harrison moved that, at the end of section 123, the following proviso be inserted:—

"Provided that, for the purpose of dividing the town into districts under section one hundred and twenty-nine, the Commissioners may retain the valuation of the houses in any part of Calcutta for a further period no exceeding six years, or may, with the same object, make a re-valuation for a less period than six years."

He said:—The town is divided into districts for the purposes of assessment and each division is assessed in turn after six years. But it is not equally divided, and when the new area is added, it may be that by an accidental flush

being put, the Council divided:—

Ayes 3.	*Noes* 10.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The HON. SIR HENRY HARRISON'S motion that, for the words "the estimated cost of building" the words "the estimated present cost of building the house" be substituted, being put, the Council divided:—

Ayes 5.	*Noes* 8.
The Hon. Moulvie Abdul Jubbar.	The Hon. H. Pratt.
The Hon. Sir Henry Harrison.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. H. J. Reynolds.	The Hon. C. H. Moore.
The Hon. The Advocate-General.	The Hon. Dr. Mahendra Lal Sircar.
His Honour the President.	The Hon. Babu Kali Nath Mitter.
	The Hon. Sir Alfred Croft.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.

So the Motion was negatived.

The HON. SIR HENRY HARRISON'S motion that the following clause be added to section 122:—

"When a house is occupied by the owner under such exceptional circumstances as renders a valuation of 5 per cent. of the cost of building, less depreciation, excessive, a lower percentage may be taken."

being put, the Council divided:—

Ayes 7.	*Noes* 6.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. T. T. Allen.
The Hon. Sir Henry Harrison.	The Hon. C. P. L. Macaulay.
The Hon. the Advocate-General.	The Hon. H. J. Reynolds.
His Honour the President.	

So the Motion was carried.

friend, where a person builds a house at great expense in a position which he thinks will be healthy, and the house turns out to be very unhealthy, is precisely one of these exceptional cases. The clause is proposed to meet such exceptional cases, and in each case the exceptional circumstances must be proved.

The HON. DR. GOOROO DASS BANERJEE'S motion that, for the first paragraph of section 122, the following be substituted:—

"For the purpose of assessment under this Act, the annual value of land and the annual value of any house shall be the gross annual rent at which such land or house might reasonably be expected to let from year to year, less, in the case of a house, an allowance of ten per cent. for the cost of repairs, and for all other expenses necessary to maintain the house in a state to command such gross rent."

being put, the Council divided:—

Ayes 4.	*Noes* 9.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER'S motion that, for section 122, the following be substituted:—

"The annual value of any house or land for the purposes of assessment shall—

(*a*) in cases where the gross annual rent at which such house or land might reasonably be expected to let from year to year can be ascertained, be such gross annual rent, except that, in case of a house, an allowance of ten per cent. shall be made for the cost of repairs and for all other expenses necessary to maintain such house in a state to command such gross rent:

(*b*) in cases where such gross annual rent cannot be ascertained, be four per cent. on the sum obtained by adding the estimated cost of building, less a reasonable amount to be deducted on account of depreciation, if any, to the estimated value of the land valued with the house as part of the same premises:

Provided that in making the assessment under clause (*b*) the estimated value of ornamental works in any house or building should be excluded; and provided further that no assessment under the said clause shall be valid unless sanctioned by the Commissioners in meeting."

The Hon. Sir Henry Harrison said in reply:—As regards the facts, I must leave every member of the Council to judge. We have just heard the statement made by a very competent member of the Council that if two similar houses be built in the two divisions of the town, each at a cost of Rs. 50,000, the house in the southern division would be assumed to carry a letting value of Rs. 200 a month or more, while the house in the northern division will be valued at only Rs. 100. Is any single circumstance more than that necessary to establish the case which I have laid before the Council? There is no question that land is more valuable in one part of the town than in another; but the moment you have bought the land, you have cleared the ground for the operations of Capital, which in the long run will look for the same return in one neighbourhood as in another, otherwise it will not be invested. Is not what has been stated above sufficient to establish my contention that the opinions of a large class of the community have completely lost their bearings in a matter of this kind? Is not that conclusive of the position I have taken that, where the lettable value cannot be ascertained, the valuation should be fixed at 5 per cent. on the estimated present cost of building the house? Can any one doubt that in the part of the town where this Council Chamber is situated, on the river bank, or in Chowringhee, houses are assessed at fully 5 per cent. on their cost; probably more, either 6 or 7 per cent. If there is any doubt that in the native part of the town houses are assessed less highly, then why this outcry against 5 per cent.? So far from there being an outcry, we ought to be thanked for reducing it to 5 per cent. Is anything more necessary to show that my fundamental contention is right?

As regards the assessment benches, that will be more properly discussed in another stage of the proceedings. I shall only say further that the hon. and learned Advocate-General has correctly explained what is the meaning of the exceptional clause I have proposed. It does not mean an appeal *ad misericordiam* to the poverty of the owner; it means that for some exceptional reason the valuation of 5 per cent. will be at times excessive, and when that can be shown, the operation of this clause will come in. One exceptional case is that in which property passes from the person who built it for his own purposes to his successor, to whom it is not worth what it was to the original owner. I should feel no difficulty in applying the principle to the other cases selected by the Hon. Mr. Allen. To Government House, the Museum, and the Great Eastern it would not apply; whereas the other case put by my hon.

ould be refe ... the Commissioners, and ... ve
... which ... [*Babu Kali Nath Mittir.*]
...uge I be far better that an enquiry shou... at ...
true, ...at enquiry it transpires that his posi... ...ld be made; an
... who ... nothing to say against his proposal; but I ... ...ion is unassai
...ie ... a mistake, especially when the rates are bei... ... do think it
...pl...ners are to pay one-half and the occupiers the o... ...g consolid
...wo modes of assessment. A great deal has been urged ...
... to show that one class of rate-payers is now benefited at the ...her hal
...he other two classes. I am not prepared to admit that the two ... my
...entioned by my hon. friend are sacrificed for the benefit of the other ... expe
... has not been ascertained that they consider they have been sacrifi... cla
...herefore, it seems to me that before we give way to any of the argume...la
...duced by my hon. friend in respect of this matter, we should really realiz...
...hat we are doing. It seems strange that no complaint of any kind has
...en heard up to the present time from one class or the other of the unequal
...idence of taxation. It seems strange that there should be such unequal
...idence of assessment. It can only be possible if the assessment has been
...ade on some erroneous basis; for if the Council would refer to the assessment
...f appeals, they would find that the percentage of appeals is very small. On
the contrary, the rate-payers are generally satisfied by the assessments made by
the officer of the Corporation. And if the percentage of appeals has not been
large, what does it show? Either that the officer entrusted with the duty of
assessing has entirely mistaken his vocation, or that he has made correct assess-
ments. I think the Council would be perfectly justified, in the absence of any
complaint, to come to the conclusion that the assessments have been justly made.
...der these circumstances, I submit that we should pause and consider before
...cept a mode of assessment which prescribes two different methods of
...on for two different classes of property. I am aware that I have
...roposed two methods; and, as far as that is concerned, it is open to
...iend to say that my remarks are somewhat out of place. But my
...roposal is restricted to cases where, owing to exceptional circum-
...ertain the letting value. It puts the matter on
... that it will only be in certain exceptional cases that
...fected. And then there will be the safeguard that
...he valid unless it is sanctioned by the Commissioners in
it will only be in exceptional cases that assessments
...ill be permitted. With these observations I leave
...he Council.

The HON. SIR HENRY HARRISON said in reply:—As regards the facts, I must leave every member of the Council to judge. We have just heard the statement made by a very competent member of the Council that if two similar houses be built in the two divisions of the town, each at a cost of Rs. 50,000, the house in the southern division would be assumed to carry a letting value of Rs. 200 a month or more, while the house in the northern division will be valued at only Rs. 100. Is any single circumstance more than that necessary to establish the case which I have laid before the Council? There is no question that land is more valuable in one part of the town than in another; but the moment you have bought the land, you have cleared the ground for the operations of Capital, which in the long run will look for the same return in one neighbourhood as in another, otherwise it will not be invested. Is not what has been stated above sufficient to establish my contention that the opinions of a large class of the community have completely lost their bearings in a matter of this kind? Is not that conclusive of the position I have taken that, where the lettable value cannot be ascertained, the valuation should be fixed at 5 per cent. on the estimated present cost of building the house? Can any one doubt that in the part of the town where this Council Chamber is situated, on the river bank, or in Chowringhee, houses are assessed at fully 5 per cent. on their cost; probably more, either 6 or 7 per cent. If there is any doubt that in the native part of the town houses are assessed less highly, then why this outcry against 5 per cent.? So far from there being an outcry, we ought to be thanked for reducing it to 5 per cent. Is anything more necessary to show that my fundamental contention is right?

As regards the assessment benches, that will be more properly discussed in another stage of the proceedings. I shall only say further that the hon. and learned Advocate-General has correctly explained what is the meaning of the exceptional clause I have proposed. It does not mean an appeal *ad misericordiam* to the poverty of the owner; it means that for some exceptional reason the valuation of 5 per cent. will be at times excessive, and when that can be shown, the operation of this clause will come in. One exceptional case is that in which property passes from the person who built it for his own purposes to his successor, to whom it is not worth what it was to the original owner. I should feel no difficulty in applying the principle to the other cases selected by the Hon. Mr. Allen. To Government House, the Museum, and the Great Eastern it would not apply; whereas the other case put by my hon.

ould be refe ... the Commissioners and ... vear
... why ... ugge ... I be far better that an enquiry should at ...
true, that enquiry it transpires that his position ... ld be made; an
... whe ... nothing to say against his proposal; but I ... estion is unassa
...ie ... a mistake, especially when the rates are bei... Loca... do think i
...ple ...ners are to pay one-half and the occupiers the o...ioning consoli
...o modes of assessment. A great deal has been urged ... Cather ha
... to show that one class of rate-payers is now benefited at the ... inc... my
... he other two classes. I am not prepared to admit that the two ... Cal... ex
...entioned by my hon. friend are sacrificed for the benefit of the other ... amin...
... has not been ascertained that they consider they have been sacrific... whic
...herefore, it seems to me that before w give way to any of the argument... i
...duced by my hon. friend in respect of this matter, we should really realize ...u
...hat we are doing. It seems strange that no complaint of any kind has
...en heard up to the present time from one class or the other of the unequal
...cidence of taxation. It seems strange that there should be such unequal
...cidence of assessment. It can only be possible if the assessment has been
...ade on some erroneous basis; for if the Council would refer to the assessment
...f appeals, they would find that the percentage of appeals is very small. On
the contrary, the rate-payers are generally satisfied by the assessments made by
the officer of the Corporation. And if the percentage of appeals has not been
large, what does it show? Either that the officer entrusted with the duty of
assessing has entirely mistaken his vocation, or that he has made correct assess-
ments. I think the Council would be perfectly justified, in the absence of any
complaint, to come to the conclusion that the assessments have been justly made.
...der these circumstances, I submit that we should pause and consider before
case... ...ccept a mode of assessment which prescribes two different methods of
ment ... ...n for two different classes of property. I am aware that I have
satisfied ... ...roposed two methods; and, as far as that is concerned, it is open to
I said on ... ...riend to say that my remarks are somewhat out of place. But my
inequalities ... ...roposal is restricted to cases where, owing to exceptional circum-
he considers his ... possib... ...certain the letting value. It puts the matter on ...
is also my duty to ... that it will only be in certain exceptional cases that th... this
without making due ... ...ffected. And then there will be the safeguard that ...
matter. He has enter... ...be valid unless it is sanctioned by the Commissioners in
that this inequality has ... it will only be in exceptional cases that assessments
several appeals before asse... ...ill be permitted. With these observations I leave
...he Council.

The Hon. Sir ... had pointed out the percentage of appe
ve every mem... the valuations of the assessor, and of a
de by a ver... so percentages are given, I am positive that t
built in ...il will come will be different from that which m
use in t... ncil to adopt. I think that if those cases are carefully
... 200 ...d that substantial justice has been done; that in most of the
luc... als were rejected; that in about 30 or 35 per cent. of the appeals t
es... difications made; and that in only a very small percentage appeals we
...y allowed. My hon. friend shakes his head. I am now speaking fro
llection; but my hon. friend has the papers before him, and he could hav
n the information on this head without the slightest difficutly, and he cou
) shown that in most cases the appeals were allowed.

In the course of his argument he has been pleased to say that he would on
port his modified proposal in the event of a proper system of appe
g fixed, and that proper system he has foreshadowed by his notice
ndment, that appeals are to be taken out of the hands of Commissioners
preferred to the Small Cause Court. I submit that it will be a great
take to drive persons to the Small Cause Court, putting them to the
ense of appointing vakeels and to the harassment and annoyance of
quent attendance for the purpose of having the appeals heard. There is
ther difficulty which has suggested itself to my mind, and which I shall
r to at the proper time in a much fuller manner than I shall do at present,
, that by the constitution of the Court of Small Causes, there is no
vision in the law which compels the Judges of that Court to take up thi
y. Suppose the Judges refuse to entertain these appeals on the gro...ing
t the law which constitutes the Court does not provide for the h... First,
such cases. What then would be the state of things? One e... present
cer would make the assessments, another would hear objections, ... with him
the person was dissatisfied, he will be compelled to go to the ... eneral rule
urt. In addition to the harassment and annoyance of frequ...ed. I admit
nts, and to the absolute necessity of incurring expense fo... ose exceptions,
person preferring the appeal will run the risk, when ... erroneous, and, if
quent, of the absolute refusal of the Small C... se C... finally decides this
n, on the groun... that there is no provision un... friend has not given
n be compelled to hear such appeals. I submit that ... Commissioners and other
eat importance, and that, before the facts stated ... am quite willing that this

ould be referred to the Commissioners, and I ha
which their view will be expressed. I venture d be made; and if
uge is made in the law on the supposition that a co ion is unassailabl
true, it is necessary to make a thorough examination of do think it wi
whether such statement has proceeded from erroneous in g consolidate
fied by the actual state of things. Now when the Local G her half,
pleased to intimate its willingness to assist the Commissioners in my my h
her funds, and with that view appointed the Octroi Com expen
ver heard that there was such a simple method by which the incom class
the municipality might be greatly increased. If the reports of the Calcu class
Municipality from 1877 to the present time are overhaule and examined, e
I am almost certain that not a single word will be foun anywhere which
will justify the statements which have been made by the hon. member in
charge of the Bill. Will it be just, will it be right, without making due
enquiry into this matter, so far as the question of fact is concerned, to
come to the conclusion that the owners of residential houses have not been
fairly assessed up to the present time? I submit that it will not. As
regards the law, the English law is applicable to this country. It is the
law which in most cases is administered by the Courts here. If the law on
the subject is that which has been propounded by my hon. friend the member
in charge, why cannot he persuade the Judges to agree with him? I think it is
going too far to say that it is impossible to have the law properly interpreted here.
I think we have Judges here who are capable of enunciating the law in matters
of this kind without any difficulty whatever. That being so, and as the provi-
n of the law to which my hon. friend referred is based on the probable letting
e of the property, why should not the matter be left there, and in exceptional
resort to the ruling of the different Judges in En nd, and fix the assess-
such cases on the basis my hon. friend has sug ted? But he is not
and ith that. He wants a change in the law. He has referred to what
the bas last occasion, and he said he felt it is his duty to point out the
in its ste duty no doubt he will perform to the best of his ability. B
to the same show the Council that we shall be doing a grave injust
why the section enquiries, we adopt the Hon. Member's proposal
d into an elaborate discussion in order to show ho
me into existence. He has been pleased to refer to
sment benches of the Commissioners; but it would

had pointed out the percen[tages] [Dass Banerjee; Babu Kali Nath Mitter.]
n the valuations of the assess[ments] as been freely referred to on the point, and it
e percentages are given, I a[m] the English law rating proceeds on a different
will come will be different [from] been the basis under the existing law. Instead of
o adopt. I think that [in] the English law is, I think I may put before the Coun
ubstantial justice has [been] late Chief Justice and Mr. Justice Wilson, in the
ejected; that in abo[ve] Bose *versus* The Corporation of Calcutta. Sir Richard Ga
made; and that in [the] said—

My hon. friend [Mr. Dass] "The principle of rating on which the Commissioners are directed to proceed is the sam
ny hon. friend [Babu Kali Nath Mitter] is adopted in England; and similar difficulties arise there in the case of gentlemen'
ion on this [point] and mansions which are laid out for residential purposes and not for sale or letting
most cases [but] such properties are nevertheless constantly rated upon the basis of their annual lettin
f his annual value."

And Mr. Justice Wilson in the same case said—

"But the whole system of taxation and assessment under the Act in question is obviousl borrowed in its general outlines from English Rating Acts."

I have already pointed out that the case referred to in the report o the Select Committee is not at all a case in point. It is a case with referenc to the valuation of a manufactory, and I do not think we have anything to d with such a case, because we have exempted machinery from valuation. Witl regard to dwelling-houses, the basis of assessment is not the estimated cos but the market value. The report of Mr. Goschen also adopts the same basi There is no sound reason for adopting the cost-price, either actual at th time the house was built, or estimated at the present time, as the basis c valuation.

The Hon. Babu Kali Nath Mitter said—The hon. member in charge the Bill has confidently stated that he has made out a strong case for mal an alteration in the law. He makes that statement on two suppositions. that his statement of facts is perfectly correct; and secondly, that the state of the law is unjustifiable. I have no hesitation in joining issue as to the point of fact. I think it is an error to suppose that as a [rule] owner of a residential house has hitherto been under-assess refus[ed] in certain exceptional cases it has been so, but barring th[ose] t there[is] hit that the statement of the Hon. Member is wholly such ap[pre]ary, I think it would be well, before the Council matter, to have a thorough enquiry on the point. My ho[n.] his authority, but has said that his friends amongst the persons have made certain statements to him. I

[*Dr. Gooroo Dass Banerjee.*]

law; for how is the market value ascertained? Every intending purchaser calculates what income the property will bring in if it were to be let out; and therefore ultimately we come to the expected letting value. The annual letting value and a proper percentage on the market value are convertible terms. Well, then, it is said it is a difficult thing to ascertain the market value. Perhaps it may be difficult: but is it not equally difficult to ascertain that which has been made the basis of the proposed law, as well as of the provision in the last amendment proposed by the hon. member in charge of the Bill? Here we have to make a deduction on account of depreciation. How is that to be ascertained? Is it not at least as difficult as the other? Perhaps it is more so. The only fair way of ascertaining the amount of deduction on account of depreciation will be by finding the difference between the cost price and the present market value. That is the only way which will indicate what the deduction ought to be. If, then, we are beset with the same difficulty, in accepting the proposed provision, that we have in the existing law, where is there any good in the change? It is said by the hon. member in charge of the Bill that the cost-price or the estimated present cost-price indicates the value of the property, if not to a third party, at least to the owner; and that in the case of an owner building a house to live in he has found a tenant, and we have only to ask him how much rent he has to pay. It is clearly the interest from 4 to 6 per cent. on the capital he has spent. That may be true, but the argument has one fallacy in it. In the case of an ordinary tenant living in another man's house, he has the option of giving it up whenever it suits his convenience. In the other case he becomes a permanent tenant because he has invested his money in building a house for his own residence. It will not do, if afterwards his means are reduced, for him to let the property, because it has been admitted by several Hon. Members that it will not yield anything like the interest on the capital sum; nor will it do to sell it, because it will not fetch anything like the sum spent in building it. If that be true, by adopting the other standard of valuation you ignore change in circumstances. These anomalies and sources of difficulty can be avoided only by taking the annual value as the basis of assessment, or, if that form appears objectionable, by adopting in its stead a certain percentage of the market value. But really it comes to the same thing. I fail to see that anything has been pointed out to show why the section in the present law should not be re-introduced in this Bill.

, had pointed out the percen
.n the ve
Dass Banerjee; Babu Kali Nath Mitter.]

.se perceas been freely referred to on the point, and it
.il will e the English law rating proceeds on a different
.ncil to s been the basis under the existing law. Instead of
.d that s the English law is, I think I may put before the Cou
.als were late Chief Justice and Mr. Justice Wilson, in the
.dificat Bose *versus* The Corporation of Calcutta. Sir Richard G
.y alle said—

.llecti he principle of rating on which the Commissioners are directed to proceed is
ven t is adopted in England; and similar difficulties arise there in the case of ge
s and mansions which are laid out for residential purposes and not for sale or
adve ut such properties are nevertheless constantly rated upon the basis of their annual
alue."

And Mr. Justice Wilson in the same case said—

"But the whole system of taxation and assessment under the Act in question is c
borrowed in its general outlines from English Rating Acts."

I have already pointed out that the case referred to in the re
the Select Committee is not at all a case in point. It is a case with re
to the valuation of a manufactory, and I do not think we have anythin
with such a case, because we have exempted machinery from valuation.
egard to dwelling-houses, the basis of assessment is not the estimat
but the market value. The report of Mr. Goschen also adopts the same
There is no sound reason for adopting the cost-price, either actual
time the house was built, or estimated at the present time, as the b
valuation.

The Hon. Babu Kali Nath Mitter said—The hon. member in ch
the Bill has confidently stated that he has made out a strong case for
an alteration in the law. He makes that statement on two suppositions.
that his statement of facts is perfectly correct; and secondly, that the
state of the law is unjustifiable. I have no hesitation in joining issue
as to the point of fact. I think it is an error to suppose that as a
owner of a residential house has hitherto been under-asses
fre in certain exceptional cases it has been so, but barring th
him, mit that the statement of the Hon. Member is wholly
can b ry, I think it would be well, before the Council
great matter, to have a thorough enquiry on the point. My ho
his authority, but has said that his friends amongst the
persons have made certain statements to him. I

law; for how is the market value ascertained? Every intending purchaser calculates what income the property will bring in if it were to be let out; and therefore ultimately we come to the expected letting value. The annual letting value and a proper percentage on the market value are convertible terms. Well, then, it is said it is a difficult thing to ascertain the market value. Perhaps it may be difficult: but is it not equally difficult to ascertain that which has been made the basis of the proposed law, as well as of the provision in the last amendment proposed by the hon. member in charge of the Bill? Here we have to make a deduction on account of depreciation. How is that to be ascertained? Is it not at least as difficult as the other? Perhaps it is more so. The only fair way of ascertaining the amount of deduction on account of depreciation will be by finding the difference between the cost price and the present market value. That is the only way which will indicate what the deduction ought to be. If, then, we are beset with the same difficulty, in accepting the proposed provision, that we have in the existing law, where is there any good in the change? It is said by the hon. member in charge of the Bill that the cost-price or the estimated present cost-price indicates the value of the property, if not to a third party, at least to the owner; and that in the case of an owner building a house to live in he has found a tenant, and we have only to ask him how much rent he has to pay. It is clearly the interest from 4 to 6 per cent. on the capital he has spent. That may be true, but the argument has one fallacy in it. In the case of an ordinary tenant living in another man's house, he has the option of giving it up whenever it suits his convenience. In the other case he becomes a permanent tenant because he has invested his money in building a house for his own residence. It will not do, if afterwards his means are reduced, for him to let the property, because it has been admitted by several Hon. Members that it will not yield anything like the interest on the capital sum; nor will it do to sell it, because it will not fetch anything like the sum spent in building it. If that be true, by adopting the other standard of valuation you ignore change in circumstances. These anomalies and sources of difficulty can be avoided only by taking the annual value as the basis of assessment, or, if that form appears objectionable, by taking in its stead a certain percentage of the market value. But really it comes to the same thing. I fail to see that anything has been pointed out to show why the section in the present law should not be re-introduced in this Bill.

answer to the remarks against my amendment, and to point out the objections to which some of these remarks are open. My hon. friend on my left (Mr. Allen), who spoke against my amendment at the last meeting of the Council, was pleased to remark that the portion of section 122 to which I objected was rendered necessary by the under-assessment of houses in the northern division of the town resulting from the Committees of the Commissioners being led away by personal feelings of favour towards their friends and neighbours. [The Hon. Mr. Allen—I did not say so. I referred to what had occurred in mofussil municipalities.] My hon. friend reminds me that he referred to the Commissioners of mofussil municipalities, with whom we have nothing to do just now. It is fortunate that I was not a mofussil Commissioner before the passing of Act III of 1884, in which the new assessment provision was incorporated for the first time. Then my hon. friend pointed out what to his mind was a shocking absurdity and inequity of assessment; the inequity, namely, of a house in the south of the town being assessed as 6 per cent. on the cost-price, whereas houses in the northern division are assessed at only 2½ per cent. But how is that an inequity? The whole argument assumes that we are bound, in making valuation for the purpose of rating, to have a certain uniform percentage on the money actually spent in building the house; that is the only basis on which all these arguments about inequality and inequity rest. Now my hon. friend was good enough to point out that we must base municipal taxation on the standard of the extent of interest that the rate-payer has in the municipality as determined by the capital sunk by him within its limits. Granting, for argument's sake, that the extent of permanent interest which a rate-payer has in immoveable property owned by him in the municipality ought to be the basis of taxation, I deny that the capital sunk in building a house is any indication of it. The capital may be misspent and may be partially irrecoverable when the property is put up for sale, and would it be right in such cases to tax a man for his folly because he has sunk capital which cannot be recovered? There is no reason or justice in that. is not the capital sunk, but so much of it as can be recovered in the shape of value which ought to be the standard of valuation for assessment. ever, to that standard, and you at once get rid of all those difficulties and s authorities which have been pointed out in the course of the discussion on the mons hment moved to-day by the hon. member in charge of the Bill. And if you adopt the market value, you will after all be returning to the present

dwelling purposes would scarcely fetch even so much as 3 per cent. of cost of building. [The Advocate-General—I said sometimes.] It is notorious fact that houses built at the same cost in different parts of the town fetch different rents, the difference being sometimes enormous—two, three, four, and even tenfold. Take the case of two similar houses, one in the south and one in the north of the town, both built at a cost of Rs. 50,000. The house in the south of the town may fetch Rs. 200 a month or even Rs. 300; whereas a similar house built in the northern portion of the town at the same cost would scarcely fetch Rs. 100 a month. Suppose both the houses were let, one fetching Rs. 200 and the other only Rs. 100? Under the first standard, that is, taking the rent as the net annual value, the two houses would be assessed at different rates. But suppose the owner of the house built in the north of the town, after having let it for one year, chooses to keep it to himself, he would have to pay now at quite a different rate from what he was doing when he got Rs. 100 a month. Would that be fair? You will now assess his house by the standard of cost, whereas a year ago you assessed him to the extent of the net annual income or rent of the house. Then, again, what is to be the basis of the estimated present cost? Are you prepared to accept the cost as given by the owner of the house? Is it not a fact that similar houses may be built at very different costs? Two similar houses built, one under the supervision of the owner, the other by a contractor, would cost different sums of money: the one could be built for much less than the other. That being so, how are you to proceed in making the estimate? You must accept the cost given by the owner. In the one case it may be Rs. 50,000; in the other as much as Rs. 80,000. A difference of Rs. 30,000 would make a great difference in the assessment. It is also notorious that large houses like those of Babu Nundo Lall Bose, Maharajah Sir Jotendro Mohun Tagore, and others built by different contractors, are built at enormously different costs, each contractor having his own estimates and prices differing considerably from those of others. How would you assess such houses? Taking all these things into consideration, I am of opinion that the use of two different standards of valuation of houses would not work fairly and justly. You must revert to the old standard of the actual rental of the house; otherwise you will be doing serious injustice to occupiers and owners of houses.

The Hon. Dr. Gooroo Dass Banerjee said:—I do not wish to protract this debate much longer. I will only ask permission to say a few words in

assumption that there are no circumstances under which a valuation of 5 per cent. would be excessive. That is a very different thing. Suppose a person of eccentric habits builds a large house in a grotesque fashion; it suits his fancy, but after he dies it will not be valued at the price the building cost? It is an exceptional case which would fall under this clause. I quite agree with my hon. friend that no human wisdom, ingenuity or ability could define the range of exceptional circumstances, and frame a section which would clearly be applicable to all cases. Cases of this sort cannot be defined; this must be left to the discretion of the court for determination. It must not be supposed that as the northern part of the town property yields a return of 5 or 6 per cent. when they are let; sometimes they fetch only 3½ or 4 per cent. It will be impossible for the Legislature to summarise all the exceptional circumstances; they can only enunciate some general principle such as a reasonable person could interpret. I do not see that that makes a hole in the rule laid down. The rule applies to ordinary circumstances, leaving the court to deal with exceptional cases as they arise. I think it does honour to the hon. member in charge of the Bill that he has thought proper to introduce some sort of a safety-valve which may be applied in the case of those who have been excessively assessed.

Then with regard to the substantive section. The hon. member in charge of the Bill dwelt on the value of the house to the owner. I might put it in this way. Suppose a man wants a house to suit his fancy and another man is to build it for him; the cost of the house would be a fair test of its value to the occupant? The only thing I am a little in doubt about is whether the words "a lower percentage may be taken" ought to be allowed to remain, and whether or not a minimum limit of assessment ought not to be given. I throw this out as a suggestion for the consideration of the hon. member in charge of the Bill.

The Hon. Dr. Mahendra Lal Sircar said:—The amendment proposed to be introduced by the hon. member in charge of the Bill, and the arguments which have been adduced both in favour and against it, clearly show that it is inconvenient to have two different standards of valuation of houses in town. This introduction of two different standards of valuation will lead to most unfair and inequitable conclusions unless we can make these two standards correspond. Now we have just heard from the hon. and learned Advocate-General that, in the northern part of the town, houses built for

the assessment valuation. I can imagine nothing more exceptional t[han] position of Government House, which is occupied only for three mont[hs] year; the Government may ask for a heavy reduction of the assessment. there is the Indian Museum, which is a building occupied by the Governm[ent] not for any benefit of its own, but for the public good. Can anything be mo[re] exceptional? Suppose the residential house of a Hindu gentleman prov[es] unhealthy, and that its inmates are unable to work more than three days in [a] week on account of illness? Who can say that that is not an exceptional circumstance, and the parties may ask the Court to take into consideration the unhealthiness of the house. Hotels are not very numerous in this town, and therefore occupation as a hotel is an exceptional circumstance. Messrs. Dyk[es] & Co. have premises behind the Great Eastern Hotel a mile in circumferenc[e] that is exceptional. All these may be held to be exceptional circumstances. But while the Hon. Member means to limit the reduction of the assessment to the case of probably one or two respectable gentlemen in reduced circumstances, all these classes of cases may be brought successfully before the Small Cause Court. [The Hon. Sir Henry Harrison—The contention is that the property in these cases is of less value than before.] Property has a certain value according to the amount of money sunk in it, and when there is a demand for such property, as at the time of the Exhibition, it will certainly command its full value: when it is otherwise, it is simply that there is no demand and tha[t] purchasers are not forthcoming. Were a wealthy family to migrate from the mofussil into Calcutta, they would have to pay for the house its full value according to the expense of construction, and the situation of the fact is that there is no change in the value of the property, but an impoverished man is perhaps not justified in living in such a house. In natural history we learn that the oyster dying by starvation expends its last efforts of strength in constructing for itself a smaller shell to match its reduced size. If it is a fact that the people of this country are unwilling to follow the example whic[h] nature has set them, I can therein see no sufficient reason to violate th[e] principle of this Act. I think that under any circumstances this clause in [its] present state ought not to be accepted for its vagueness and uncertai[nty].

The Hon. the Advocate-General said:—I wish to say just on[e] other, to what has fallen from my hon. friend Mr. Allen. The clause goes [to] remedy supposition that there are circumstances which depreciate the valu[e] of the building. The whole of my hon. friend's argument proceeds [on] as bene-

[...3.] lieve that this proposal has ever been brought forward. The early part speech distinctly showed the evils to be guarded against; and having arded against those evils by a section which is substantially the same as sse Select Committee has provided, he proceeds to undo the whole and to ntroduce a clause above all vagueness. Having erected a lyke to keep out the sea, he is not content till he burrows a hole through n which lets in the sea again. He provides that "when a house is occupied by the owner under such exceptional circumstances as renders a valuation of 5 per cent. of the cost of building, less depreciation, excessive, a lower percentage may be taken." And he mentions one single circumstance to which the exception would apply, viz. where a man lives in a bigger house than his circumstances warrant. But the words of his clause reach far beyond anything of that kind, and they are words which should not find a place in any law. They are, as I said, vague beyond any permissible degree of vagueness, and they afford not the slightest indication as to what limits the eduction may extend. And further with reference to the words "valuation of per cent. of the cost of building being excessive." With reference to what is excessive? Not with reference to the valuation of the property. The whole stem of municipal taxation proceeds on the idea that the property owned by person within a municipality is an indication of the amount of tax to be paid him; he is to pay in proportion to the extent of his property. Whether he is poor man or a rich man, whether he occupies it himself or lets it, is immaterial r purposes of municipal taxation. His poverty would be a good ground tqal duce his income-tax, or any tax which takes the circumstances of the individ cum- o consideration. But when the law discards all consideration of the cir in the nces of individuals, and takes into account only the value of property of his nicipality, if the circumstances of a man are to render the valuatio his utterly perty excessive, we have altogether a new principle introduced; it sources of ossible to say how far it will extend, or to what extent the r is unwilling municipality will be affected by it. The Hon. Member Commissioners, allow appeals to the assessment benches of Municipal to the Small suggests that the decision on appeals should be lef circumstances are o ourt. But suppose enquiries into these exception duty of this Council held by the Small Cause Court. It is the bounden e exceptional circum- t down some indication of the character of th ation for a reduction of in hich should be admitted as a sufficient justific

and a different set of three men to-morrow, because I am afraid the exce as in the Latin grammar, will be the rule. But I hope in future to in fair-minded and impartial officer to decide objections to assessments under appeal to a judicial tribunal, so that it may be shorn of the objections whi I would otherwise admit. I shall now explain the necessity for this clause. person bui'ds a house for his own use and to suit his tastes and his means, and when he occupies it you may fairly rate him at the full value of the house to him; but circumstances may change very materially. Subsequently, whether in one, two or three generations, the family may fall into less prosperous circumstances, as happens in this country very frequently. They have this house on their hands; their circumstances are such that they would not have built so expensive and well-kept a house; they would with their means have built a much less pretentious house. They have only three alternatives at hand; they have either to sell or to let the house, or to continue to live in it themselves. It is hard, looking to the great attachment to ancestral property in this country, to drive owners to these alternatives; but if he retain the house you cannot in justice say that it is worth the same to him as it was to his ancestor who built it. To him it is really not worth more than he could get for it if he sold it or let it. You cannot make out that the house is worth more than it will command in the market, and I should therefore be very reluctant to make a hard-and-fast rule in the case of poor house-owners of this kind. I think that in such extreme cases an assessment of 4, 3 and even 2 per cent. might be taken equitably as the fair value in the case of once wealthy families whose property and circumstances have become depreciated. I propose to move this as a separate amendment, because I do not think I ought to include the amendment on the general principle with this amendment, which is intended to deal only with exceptional cases. I hope the Council will fully realise that such a clause is essential, if we are to keep a 5 per cent. valuation as the general principle on which residential houses ought to be assessed, where they now pay 4 per cent. or even less: on the other hand even 4 per cent. would in some cases be very hard. We should levy taxation fairly over the town, but at the same tim should not be unjust to those families in impoverished circumstances oth have inherited houses of a better kind. For these reasons I ask the Counc reme consider these two amendments. of 1

The Hon. Mr. Allen said—This is one of the Hon. Member's as be thoughts. During the two years the Bill has been before the Counci

troducement, he thought it necessary to add some sections about taking the ke total sum paid for the house. Opinion oscillates between two different tests. whie first is to take "the capital sum which would be paid for the house," which tl the same virtually as the market value, or should be so. The second, the cost of building, which in several decisions is said to be the best and the proper test, or, as Mill has it, the present cost of the building, allowing for depreciation. When my hon. friend Dr. Gooroo Dass Banerjee proposed at the last meeting the words "market value," I was disposed to accept the suggestion, because it is, on the whole, a question of equity, as people would not be willing to under-value their own property. On the other hand, there is an objection to use the words "cost of building," because it is not quite clear whether it should be the original or the present cost of the building. The original cost is not a fair test. The cost of building might have been much less 30 or 40 years ago; the true test is the cost of building now, not then. On the other hand, as regards "market value," I have been dissuaded from accepting this test by my hon. friends the learned Advocate-General and the Legal Remembrancer; they consider the expression "market value" to be fraught with far more embarrassment, and prefer taking the present cost of building the house, making due allowance for deterioration. After full consideration I have come to the conclusion that it is best to be advised by experts in a matter of this kind, and I therefore submit that the wording should be "estimated present cost of building the house, less an allowance fo deprecication on account of deterioration."

Then, as regards percentage, the Committee at first thought 6 per c or nearly 16 years' purchase, to be a fair assessment, and that is usually by the Courts in the valuation of property; but the remonstrances were so strong, that by a narrow majority we thought it better to re 5 per cent. Less than 5 per cent. I cannot say is fair. I cannot in ordinary circumstances 5 per cent. on the cost would be assessment, looking at the rate of interest. At the same time, wiving very careful consideration to the question, though ichsequent amendment, to which I shall refer now, to add th ouse is occupied by the owner under such except rs a valuation of 5 per cent. of the cost of build ive, a lower percentage may be taken." I woul is to be left as heretofore to the haphazard tr

rded'
e Sel

on
tak
to th
duce it
think th
too high a
I have, aft
it necessary in
se words: "Whe
onal circumstances
ling, less depreciatio
d not propose this if th
bunal of three men to-da

[*Sir Henry Harrison.*]

partly because it has very little to do with the matter, because the decis cal
that case is not constructive, but merely reverses the decision of the A but
late Bench. What is the principle on which our assessor has proceeded un Ao
the guidance of these Appellate Benches? I have questioned him v
closely on the point, and he thinks that in general the Assessment Bene
do not proceed on any principle at all. Just consider what is likely to be the
principle of action of three gentlemen, taken haphazard, who have never sat
before together, and who have forty appeals to decide in the course of an
afternoon. But still they are clearly in agreement on one point, that if any one
desires to let his family residence, he is not likely to get any one to rent it
at its full value. There is no demand for such houses, and he will perhaps
have to wait a long time before he can get a tenant at all; when he gets
one, a small sum will be offered. Hence on that principle they value such
houses just as was done in the case of Chatsworth and Belvoir at very small
amounts. Now I put it to the Council that this is not a proper interpretation
of the law. I believe it to be erroneous and contrary to the spirit of the
interpretation in England. When a house is built for occupation by the owner,
and the owner is the tenant himself, that house has found its tenant, and you
have not got to go into the highways and byeways to find another tenant; but
to ask what is the tenancy worth to him, and not to any imaginary successor
He builds it to suit his own taste and family, and has no intention of letting
it. Now so much do the owners of such houses value the tenancy that far from
this principle leading to too low an assessment, it would, if correctly applied,
lead to over valuation. It would take two or three times the fair value of the
house to tempt them to give it up. Of course that is partly due to the
sentiment of attachment to ancestral property, and, above all, to the desire
to live in their own houses. It is said that it is not fair to make a man pay f
his sentiment. This may be admitted: but it remains that if the true test, t
value of the tenancy to the actual tenants, were looked to, they would have
pay much more rather than less than others; and if the present law were applie
by an unsympathetic instead of a sympathetic tribunal, they would soon co
to their senses and see the justice of applying some other test.

I consider therefore that I have fully shewn, looking to the very other
way in which the present words of the law may be interpreted, remed
sity for changing that wording. The same difficulty was fou of th
Gos chen's Parliamentary Committee; and in the Bill, which as bene

ssum now considered necessary by all authorities, nevertheless the law has nt..ed fairly well there owing to the liberal interpretation which has been put the Courts on the words of the Act. The difficulty which has to be faced, now to apply it to houses which are not ordinarily let, such as large manu-tories, light-houses, hospitals, and, above all, large family mansions. The se of large family mansions soon came up in England, and the very same buse resulted there for some time. Instead of being assessed at anything like heir proper value, such mansions were assessed at a mere song, on the ground nat no one would be likely to take houses like those on rent from year to year. n this subject Mr. Mill says:—

"The public were justly scandalised on learning that residences like Chatsworth or elvoir were only rated at the imaginary rate of perhaps 200 a year, under the pretext that wing to the great expense of keeping them up they could not be let for more, probably even ey could not be let for that, and if the argument were a fair one they ought not to have been ixed at all. But a house tax is not intended as a tax on incomes derived from houses, but n expenditure incurred for them. The thing which it is wished to ascertain is what a ouse costs to the person who lives in it, not what it would bring in if let to some one else. When the occupier is not the owner and does not hold on a repairing lease, the rent he pays the measure of what the house costs him; but when he is the owner some other measure ust be sought. A valuation should be made of the house, not what it would sell for, but hat it would cost for rebuilding it, and the valuation might be corrected by an allowance or what it had lost in value by time, or gained by repairs and improvements."

Does not every word of this argument thoroughly bear out and justify the hanges proposed in this section?

But how has the law been interpreted in England? I have here a manual n assessments by Lumley published in, and I will read to you the summary of ecisions given by the Superior Courts in the cases of manufactories, light-houses, mily residences, and hospitals (Here the Hon. Member read from the anual).

What can be more reasonable than the spirit of these decisions? The etermination which the Courts manifest not to allow the letting test to be used a handle for under-assessment, on the plea of no tenants coming forward to ay more. They invariably insist that either the cost of building with ground the market value, must be taken to determine the rent which a hel[illegible]gal tenant should pay.

ds dowivi[illegible]n the other hand, has the law been appli[illegible]d in Calcutta? I am not te-Ghichos[illegible] the decision of the High Court in th[illegible]case of Nundolall Bose,

[illegible]ouse

[illegible]rs a

[*Sir Henry Harrison.*]

In the law of 1863, and in the revised law of 1866, the rule was that the appeal should be heard by three Justices, the Vice-Chairman being usually one. But on the motion of the late Hon. Kristo Das Pal in 1876, objection was taken to any executive officer of the Corporation sitting on Assessment Benches; and that objection was allowed, and the result is that appeals are now heard by three Commissioners. We have had various systems in the selection of the three Commissioners to hear such appeals. Under the latest system the selection has been by lot amongst those who offer to sit on appeal benches, volunteers being invited for the purpose. To this appeal, which is made once a year generally rather more than half the Commissioners respond. The European Commissioners, as a rule, abstain. It is true it is their own fault, but they consider they have not the time to spare. The Assessment Committee thus consists of about 36 Native Commissioners and about 4 European Commissioners; and I only know of 3 Europeans who have ever sat on appeal benches during the last six or seven years. Nearly all these Commissioners are owners residing in their own houses. I do not say that this has been designed; it comes about by natural drift; they are most interested, therefore they put their names down, and they naturally have sympathy with their own class and look kindly on any interpretation of the law which tells in their own favour. They have adopted one standard for houses occupied by owners and a totally different one for houses occupied by tenants or for business purposes, or for large Government buildings. The Government officers have accepted the assessments, and Government buildings have on the whole been assessed at a fair valuation.

Now, as regards this lenient interpretation of the law, I ask the Council to bear with me while I explain what the law is. The present law of assessment in England dates from the time of William the Fourth. Before that time it was in great confusion. At that time an Act was passed which has maintained its ground ever since. It prescribes that the valuation is to be the rent at which the tenement might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes, and deducting therefrom the average annual cost of repairs, insurance, and other expenses, if any, necessary to keep the estate in a state to command such rent. The words adopted by the Indian Legislature are "the rent at which it may be reasonably expected to let from year to year." That is in the existing Act and in the present Bill, and the principle has been everywhere accepted as the best. Although in England an amendment of the law has been made, as bene-

deduction from his profits; he receives Rs. 1,000 and pays Rs. 100. But when he gets no profit, and is living in his own house, he feels it particularly hard that he should have to pay anything. It is not difficult to understand the sentiment; but how about those who have to pay Rs 1,000 to occupy a house? If the person who makes no income from his house feels the payment of rates a grievance, what must the person feel who has to pay rent and rates besides? If the owner who gets no return feels it a grievance that he has to pay an equal rate of taxation, ought not the person who pays rent to feel that he ought to have a portion of the rent returned to him? Arguments of this kind cannot help the matter. There is, I am aware, a strong sentiment that my proposal is extremely unjust. It is looked upon as a grievous act of oppression, reflecting the greatest possible discredit on me and on some Hon. Members of the Council who adopt my proposal; but surely an accusation such as this must rest on something better than the sentiments of those whose pockets it touches, it must be shewn to have some reasonable foundation.

Another argument advanced is this, that a gentleman, when he builds a house to dwell in, looks upon it as his jewels or his ornaments, and he feels it as great a hardship to be taxed for that house as if he is taxed on his diamonds and his pearls. Lastly, we have the objection which is embodied in the amendment before the Council, proposed by my hon. friend Babu Kali Nath Mitter, which says: "Provided that in making the assessment under clause (*b*) the estimated value of ornamental works in any house or building should be excluded." That in fact he ought not to pay anything more than before for the brick and mortar. Is that reasonable? If a person spends a certain sum to ornament his house, plainly he ought to pay on that sum just as much as he ought to pay on any outlay for additional buildings.

The next point is what are the causes of this anomaly? One cause is the system of procedure in force for the last 12 years; the other is, to the wording of the substantive law. As regards the system of procedure, the assessor fixes the valuation. On his doing so, if the owner is dissatisfied, he has the option of appealing either to the Small Cause Court or to a bench of three Commissioners from which the executive officers of the Corporation are excluded. As the matter of fact, the second of these modes of appeal is invariably adopted. In my experience I have known, I suppose, of 200 or 300 appeals against assessments, and I have known of only one appeal to the Small Cause Court. The appeal to a bench of three Commissioners is almost invariably followed.

time of the Council by reading long extracts; but I may say that this is very clearly pointed out in the last pages of Fawcett's Political Economy. Therefore I say that the two classes now worst off are those which, if there should be any immunity at all, ought rather to be favoured. But so far from being favoured they have not merely been over-assessed, but another class has been under-assessed. I say they have been over-assessed, because in making a valuation you should on principle allow such deductions as will enable the property to be kept in such a condition as to continue to command the full letting value. Suppose Rs. 3,000 is the annual letting value, but, to keep the property in a state to obtain that value, Rs. 500 have to be spent annually for repairs: you ought to deduct this Rs. 500 for repairs before fixing the fair letting value. That is never done in Calcutta, and the objection has been dismissed with the remark that taking the assessment all round it comes to the same thing in the long run. But in this instance it is not an all round deduction. Houses occupied by owners have been assessed on a totally different principle. They have not been assessed much below their value: therefore the classes I speak of—persons occupying business premises and tenanted houses—have been assessed on the gross rent realised, and they have consequently been over-assessed to the extent of 10 or 20 per cent., while others occupying their own houses have been assessed at less than the true value. My hon. friend Babu Kali Nath Mitter has said that I am unnecessarily stirring up dirty water, that hitherto things have worked well, and he does not see why I need have raised the question. But I maintain that I should have been absolutely wanting in my duty, when my attention was drawn to the unfairness, if I had not laid before the Select Committee proposals for remedying it.

Assuming that this inequality of assessment does exist, and that the injustice should be redressed, the question is how should it be done? The first question is, to what is it due? I have taken a great deal of trouble to discuss the matter with several Commissioners and the officers of the Corporation, and, so far as the state of facts is concerned, I have found no real dispute, but I have found many persons ready and eager to justify the system. I therefore pressed them to disclose the reasons for favouring one class at the expense of another, community. I give the best reasons I have heard. One very intelligent advocate argued that when the owner lets his house he gets an income-tax, and therefore he feels that he ought to pay a corresponding rate on that income as a remedy of the benefit

fitod, I think unjustly, is the class living in their own houses. The class which has suffered has been first and chiefly the business community; that portion of the community which does the work of Calcutta, and which most contributes to its wealth and greatness, and in this class must be included public offices and buildings. In the second category are all those classes of the community who live in tenanted houses. These are the two classes who suffer; while the class who are living in their own houses have had an unfair advantage. If that is the case, the first point to notice is that it is exactly the opposite of the distinction which should be made, if any. Business premises, according to political economists, ought not to be taxed at all, and on the principle of this tax, as pointed out by Mill, whatever portion of a house is occupied for business purposes ought to be exempted altogether. That obviously would not be practicable in Calcutta. Still this much is reasonable, that certainly the business parts of the town ought not to be selected for exceptional taxation. I will not contend that any immunity ought to be given; but if any immunity ought to be given, then the only sound principle of justice in municipal taxation is that that portion of a property which is devoted to reproductive purposes—business purposes—ought rather to be exempted. Then there is another principle why business premises should not be too heavily taxed. For water-supply and some other purposes, they pay much more than the benefits they receive. There is no difficulty in showing, in fact I have already shown, that a large portion of the business part of the town undoubtedly pays more for water than the advantage they get in return. I am merely pointing out that if there is to be any distinction, if all classes are not to be put on the same footing, the portion of the community engaged in business is the one which ought rather to be treated with consideration.

Next as regards tenanted houses, their occupiers also may put in a claim for indulgence. Certainly, as regards the water-supply, they get their share; but a large portion of the revenue of the town goes to making improvements or paying interest for improvements. Suppose a great improvement is made? If the money is laid out wisely, property rises in value. So long as there is a lease the tenant enjoys the benefit, but when the lease expires, the rent is raised. It is therefore a well recognised principle that, [illegible] is devoted to improvements, and not to ordinary current taxing of occupiers who are tenants, and occupiers who are [illegible] same basis, is not equitable. I do not like to take up the

substitute for the words 'the estimated cost of the building' 'the estimated present cost of building the house.'

The other to add the words—

"When a house is occupied by the owner under such exceptional circumstances as renders a valuation of 5 per cent. of the cost of building, less depreciation, excessive, a lower percentage may be taken."

It seems to me that this provision stands on quite a different footing, and therefore I put it separately, although it may be discussed with the other amendment. If both are put as one amendment, they would stand or fall together; but if put separately this branch of the amendment might be adopted, although the first portion might be rejected. Having Your Honour's permission to put my amendments in this way, I shall now proceed to discuss them. As I stated to the Council at the last meeting, my reason for asking for the adjournment of this discussion was that the question is the most difficult and most important which we have to face. Most important because it will be easy to show, and in fact it has been shown by my hon. friend Mr. Allen, that there is an abuse prevalent in the existing system which renders the whole incidence of taxation in the town unequal—an abuse which goes to the root of the whole equity of our municipal taxation. If that is an opinion which I can conclusively establish, then a case is made out for correcting it, and it is not difficult to point out to a certain extent the direction in which amendment should take place. But as to the exact wording which will best meet the case, there is considerable difficulty, and it is a matter on which I may fairly appeal to the assistance of the whole Council to help me in solving the difficulty in the best manner possible. A few words I ought to say in the first instance as regards the serious abuse which it seems to me indispensable to correct in the new Bill. It is this. Obviously fair and equal valuation lies at the root of all municipal rating. If one house is estimated at half its proper value and another at its full value, it is perfectly evident that the same injustice is done as if you put a rate of 5 per cent. upon one and of 10 per cent. upon the other. If it is a fact that a large portion of Calcutta is being valued at more rather than less than double of the other, it means that more rather than less than double taxation has been levied from one class of rate-payers as compared with the other, and it is difficult to conceive any abuse which more urgently requires remedy than this. It is not so much a case as between the south and the north of the town, as between different classes of the community. The class which has bene-

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 14th April, 1888, at 11 A.M.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The Hon. G. C. Paul, C.I.E., *Advocate-General*.
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. Sir Henry Harrison, Kt.
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.
The Hon. H. Pratt.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The Hon. Sir Henry Harrison moved that the clauses of the Bill to consolidate and amend the Law relating to the municipal affairs of the Town and Suburbs of Calcutta, as further amended, be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

[The adjourned debate on section 122 was resumed.]

The Hon. Sir Henry Harrison said:—The amendment which stands in my name has been wrongly shown in the notice paper. I gave notice of two amendments in respect to this section, each distinct from the other, the first to

[*Babu Kali Nath Mitter; Sir Henry Harrison; The President.*]

England so far as I am aware. The case referred to in the report of the Select Committee is in respect of a manufactory. It is a case in which Mr. Justice Whiteman said there should be a hypothetical tenant. Probably in the case of Nundolall Bose, if it could have been shown that the lettable value could not be ascertained, and that it was necessary to presume a hypothetical tenant, the result might have been different; but the assessor simply stated that he took the percentage which he considered fair and reasonable (2½ per cent.) on the value of the property. I submit it is quite evident from the ruling in this case that the law as it at present stands does not warrant the value of the property being taken as the basis of assessment. What has happened to justify the proposed change in the law? Simply this case of Nundolall Bose. If my amendment is adopted, the ordinary method of assessment will be the lettable value. Where that cannot be ascertained, a percentage on the value would be taken; but then there would be this safeguard, that it would need to be sanctioned by the Commissioners. Tho cases in which this mode of assessment would be resorted to would be exceptional cases where the lettable value cannot be ascertained, but the ordinary mode of assessment would be the lettable value.

The HON. SIR HENRY HARRISON said:—I would suggest that the Council should adjourn at this stage. This is, I think, the most difficult section in the Bill. It is beset with difficulties, and it is one to which I have given more attention than to any other part of the Bill. Several principles of extreme difficulty are involved in it; and before I proceed to propose the amendment of which I have given notice, I would ask the President to adjourn the Council.

HIS HONOUR THE PRESIDENT said:—I am rather unwilling to cut short this discussion in the middle of it; but if the hon. member in charge of the Bill thinks it expedient to take time to consider the suggestions which have been made before making his reply, I think it would be wrong in me to refuse adjournment.

The further consideration of items Nos. (15), (16), and (17), and of other clauses of the Bill, was postponed to the next sitting of the Council.

The Council was adjourned to Saturday, the 14th April, 1888.

CALCUTTA;
The 1st May, 1888.

H. A. D. PHILLIPS,
For Assistant Secretary to the Govt of Bengal,
Legislative Department.

Reg. No. 2280G—300—21-5-88.

My hon. friend the last speaker believed that the natives of Calcutta would not invest money at 4 per cent. I think he is labouring under some misapprehension on that point. A very large proportion of the Government securities is held by the natives of Calcutta, and that is a strong argument that they are satisfied with that investment. From my own experience I know that house-owners now lend out money on mortgage of house property at from 6 to 8 per cent, whereas the rate of interest formerly was 12 per cent. Hitherto no difficulty was found in the assessment of property in Calcutta till we came to the memorable case of Nundolall Bose. I know of no other case which was appealed to the High Court. There was one other case appealed to the Small Cause Court from an over-assessment of the Justices. Besides these two cases I am not aware of any other where, as far as the Commissioners are concerned, any difference has arisen between them and the rate-payers. The case of Nundolall Bose, which gave rise to the proposed alteration in the mode of assessment, shows that in that case no attempt was made to ascertain the lettable value of the property, but the assessor professedly took a certain percentage on the market value. Nundolall Bose appealed to the Commissioners. A Bench of five Commissioners sat. There was no denial that the assessment was made irrespective of the lettable value and solely on a percentage of the value of the property. The Commissioners made a slight reduction, which did not satisfy the appellant, and he applied to the High Court for a rule of *certiorari*. The matter first came before Mr. Justice Pigot, who was of opinion that the Commissioners were not justified in making the assessment in the way they did; but that they had acted within their jurisdiction, and the High Court could not interfere. That decision was appealed against, and the appeal was heard by the then Chief Justice, Sir Richard Garth, and Mr. Justice Wilson. There was nothing before those Judges to show that there was any attempt to fix the assessment on the lettable value of the property, and the statement made, that the assessment had been reduced out of regard to the pro[illegible]der who acted for Babu Nundo Lall Bose, was not challenged in any imp[illegible] The Appeal Court held that this was not a question of jurisdiction [illegible]of a mistake made by the Commissioners in fixing the assessment on [illegible] principle not warranted by the law, and the rule was made absolute. [illegible] do not think there is anything in that case to justify a change in the [illegible]inciple of assessment hitherto followed, and to make the value of property [illegible]s basis of assessment. It is contrary to all the principles of rating in

[*Babu Kali Nath Mitter.*]

When this question was considered for the first time in Select Committee, he referred to those exceptional cases showing that justice was not done because of this hard-and-fast rule of ascertaining the lettable value, and on that the section was framed as it stood in the last Bill. But when the question came before the Select Committee on the second occasion I understood the Hon. Member to say that in the majority of cases, in the case of almost all residential houses, the assessment should be based on a percentage of the cost. While I agree that there are some exceptional cases which ought as far as possible to be dealt with on that principle, I think the proposal to assess all residential houses at 5 per cent. on the cost price would press unduly upon owners. In the first place who is to decide the market value of the property? The assessor fixes one value; the owner puts it at a different figure. From the amendment to be moved by the hon. member in charge of the Bill he seems to wish that there should be no appeal from the decision of the Commissioners. I myself am not in favour of allowing an appeal to the Presidency Small Cause Court. The Judges of that Court not having to decide matters relating to land have no experience as to the value of real property, and therefore they will find extreme difficulty in determining the market value. There will besides be the further disadvantage and inconvenience of the parties having to dance attendance for perhaps six months before a case is decided. I believe I am perfectly correct in saying that although recourse is now allowed to the Small Cause Court by way of appeal from the assessment of the assessor, there has hardly been a single appeal to that tribunal. People avail themselves largely of the right of appeal to the Commissioners, but they do not resort to the Small Cause Court. What is the reason for that preference of one tribunal to another? It is this, because in the one case the Judges are themselves mostly land-owners and are fair judges of what the assessment should be, and in the other there is no such experience, and moreover there is the harassment and annoyance of a case hanging on for months. I admit that the amendment of the hon. member in charge of the Bill is an improvement on the section in the Bill, but not to the extent desirable. This is a question on which the rate-payers of the town are very much interested, and I hope therefore that on this and all other matters of importance due consideration will be given. The British Indian Association is composed of men of property in Calcutta, and they have pointed out that it is only in exceptional cases that the assessment should be based on the value, but that in such cases it should not exceed four per cent.

ascertained, it would be a percentage on the cost price. The Select Committee in their report refer to the report made by the Committee of which Mr. Goschen was the Chairman. There it is pointed out that—

"When it appears to the assessing authority that for special reasons a building cannot be fairly valued according to the annual rent which a tenant might reasonably be expected to pay for it, it shall be valued in the following manner:—

"The gross value of any such building shall be a sum equal to 4 *per cent.* on the capital sum which a purchaser might justly be expected to give for such a building in its actual state and existing mode of occupation."

Therefore, as far as this report is concerned, it clearly points out the distinction. In cases where the lettable value cannot for any special reason be ascertained, then we must take a percentage on the market value. I wish to adopt that principle, and have therefore framed the section in this manner. In the first place objection is taken to the amendment of my hon. friend on the ground that in the mofussil a percentage on the value is allowed by law. But my hon. friend forgets that the value of land in the mofussil is very different from Calcutta. Here you have to pay large sums of money to purchase land. A cottah of land has been known to sell for Rs. 5,000. In the mofussil in the best of position it will perhaps be Rs. 50. Therefore the mode of valuation allowed in the mofussil does not justify it being introduced into Calcutta. It was said by the Hon. Member opposite (Mr. Allen) that a person who has money to spend after his house should not grumble to pay Municipal taxation. Take the case of a person who has embellished his house with guilded corners and ornamental works, would it be just because he has spent money in that way to take the annual value as a percentage on the cost price? To my mind such a proposal should not be entertained for a moment. Rent is the basis of rating; before you can tax property, that property must be capable of producing rent. It has been pointed out that there are some cases in which it is not possible to fix the rent of a house; in those cases perhaps an exception is needed. The Select Committee referred to certain observations of Mr. Mill, but those observations are inapplicable to Calcutta, because the rate he speaks of is paid by the occupier and not by the owner. It shows that the rent which a man is able to pay for a house to live in, is a fair guide to go upon; but it is different when the rate is to be paid by the landlord. A landholder sinks his money with the view of getting a fair return, and surely the rent is to be taken into consideration. The hon. member in charge of the Bill will correct me if what I now say I am mistaken.

the town are not built for sale, and they are not in the market. Market value implies that somebody should be willing to sell, and that more than one person should be willing to buy. The hon. mover of amendment talks about a man building a house to suit his own taste which differs so much from the taste of everybody else that he sinks a greater sum of money in the construction than any other person would be willing to give. If he is a poor man, the probability is that he will not sink money in that way. It is a novelty to hear that natives of this country are willing to accept 4 per cent. on money in house property. In other matters even 6 per cent. will not suit them. If a man does so sink money, the money sunk represents his stake or interest within the municipality, and it is precisely on the stake each member so has that municipal tax is properly levied. The average rate they expect for their money is far beyond what Europeans expect; far above 6 per cent. The only way to effect an equitable assessment is either to deduct 33 per cent. of the rent of houses in the southern part of the town, or to take a percentage on the cost price where houses are built for the purpose of residence and not for the purpose of letting.

The HON. BABU KALI NATH MITTER moved that, for section 122, the following be substituted:—

"The annual value of any house or land for the purposes of assessment shall—

(*a*) in cases where the gross annual rent at which such house or land might reasonably be expected to let from year to year can be ascertained, be such gross annual rent, except that, in case of a house, an allowance of ten per cent. shall be made for the cost of repairs and for all other expenses necessary to maintain such house in a state to command such gross rent;

(*b*) in cases where such gross annual rent cannot be ascertained, be four per cent. on the sum obtained by adding the estimated cost of building, less a reasonable amount to be deducted on account of depreciation (if any) to the estimated value of the land valued with the house as part of the same premises:

"Provided that in making the assessment under clause (*b*) the estimated value of ornamental works in any house or building shall be excluded; and provided further that no assessment under the said clause shall be valid unless sanctioned by the Commissioners in meeting"

He said:—There are a few houses in Calcutta in regard to which perhaps it may be difficult to obtain the letting value. To meet these few exceptional cases I propose to frame the section in this manner. In cases where the lettable value can be ascertained, the assessment should be the rent less a certain deduction for repairs; in cases where the lettable value cannot be

the substitution of "4" for "5" in line 14 of section 122, the object of which is to bring the valuation nearer to the proper standard.

The HON. SIR HENRY HARRISON said:—I am very much disposed to agree with the concluding remarks of the Hon. Member. I would consider it a considerable improvement if "market value" is substituted for "cost price." So far, if the Hon. Member will agree to that, I shall be very glad to make the alteration.

The HON. MR. ALLEN said:—The principle of this section has been attacked as if it was perfectly unknown, but already it is the law in all mofussil municipalities that where property or houses have been erected not for purposes of letting, a certain percentage should be struck on the cost price as correctly as can be ascertained. It was found necessary to introduce this principle, because while mills and structures of that character were over-assessed, houses in which Municipal Commissioners and their friends resided were as much under-assessed. From the report of the Chairman of the Corporation it would appear that something of the same kind is not unknown in Calcutta, and that on houses occupied in the northern part of the town, hitherto the average assessable value has been about 2 per cent. or less of the cost of construction; while in regard to all houses in the southern part of the town which are built for letting purposes, there is not a house which is let for less than 6 or 7 per cent. on the cost, and the full rent is taken as assessable value of all such. I have heard of houses being built with money borrowed at 7 per cent., and the Hon. Mr. Irving took the trouble to ascertain from a partner of Messrs. Mackintosh. Burn and Company, who reported that it is a thing unknown in Calcutta to expect less than 6 per cent. as a return for the money invested in house property. This being the case, while the southern part of Calcutta is assessed at the full rent, that is 6 or 7 per cent. on the outlay, a totally different principle of assessment is in force for the northern part of the town. If the amendment now proposed is carried, the only way to adjust the incidence of taxation between the north and south of the town will be by deducting one-third of the rent paid in the southern portion and taking two-thirds as the assessable value. It will to that extent be equitable. But possibly the total receipts of taxation would fall so far short that a higher rate would have to be struck. The market value of a house is supposed to be a proper indication of the value rather than the cost of construction. What is the market value of that for which there is no market? The first difficulty is that the houses in the northern portion of

which supports that basis? The report of the Select Committee refers to the English political economist Mill, and points out that the cost price of a h may be fairly adopted as the basis of taxation, because it indicates the exte of the owner's means, and therefore it fairly indicates his capability o paying the tax. With reference to that argument, I would beg to point out that that is not the case in this country, and for a very simple reason. We all know that many a man builds a large house to live in because he has a large family consisting of his own children and those of his father and grandfather, and secondly, because there is a prevailing sentiment that one ought to have a house which he can call his own to live in; and therefore to tax a person on the basis of the capital he has invested in building the house will, in this country, be not taxing him according to his means but taxing him on account of his feeling and sentiment. Another point I will draw attention to. In the report of the Select Committee an English decision is referred to:—

"In the case of such houses in England as are not built to let to tenants from year to year, the rule has been judicially declared to be that 'a hypothetical tenant must be assumed, and the terms of such tenancy are not difficult to be conceived; the occupying tenant must be assumed to pay *adequate remuneration to a contractor for land and fixed capital vested therein*, and the local rateable value would be such a sum as would pay the rent of the land and profit on the fixed capital therein.'"

I have not been able to find this case in the reports, but the hon. member in charge of the Bill has handed me the book from which he made the quotation, and I find that the case is not the case of a residential house but of a manufactory. In the case of a residential house, which is also referred to in that book, the basis of assessment is said to be a percentage not on the capital invested, but on the market value which the property will fetch. That one can understand, but that is very different from the provision in the Bill. A man may build a house which suits his convenience more than the convenience of another man, and he may invest more money in building it than another man. But if he sells the house, what he would get would not be the cost price, or the cost price less a deduction for deterioration, but it will be something which would be quite different from and much less than the sum of money invested in building the house. So that the standard on which the section is based is quite an arbitrary standard, and therefore I submit it ought not to be allowed to stand. If this amendment does not commend itself to the Council, I propose as an alternative

letter to say that it shall be *provisionally registered* so as to be subject to the safeguards of that form of registration.

The motion was put to the vote and carried.

The HON. DR. GOORGO DASS BANERJEE moved that, for the first paragraph of section 122, the following be substituted :—

"For the purpose of assessment under this Act, the annual value of land and the annual value of any house shall be the gross annual rent at which such land or house might reasonably be expected to let from year to year, less, in the case of a house, an allowance of ten per cent. for the cost of repairs, and for all other expenses necessary to maintain the house in a state to command such gross rent."

He said :—The object of this amendment is to leave out that portion of the section in the Bill which provides a special mode of valuation for residential and other houses not intended for letting purposes, and to fix one general mode of valuation for all lands and houses. That is the law at present, and is the only method which can be supported on principle; and so far as I can discover from the report of the Select Committee, no case has been made out for the proposed alteration. The only grounds upon which the Select Committee propose to introduce the change are two, namely, difficulty of assessment under the present law, and its inequitableness. With regard to the first ground of objection, I think the difficulty is not peculiar to Calcutta. Similar difficulties arise in England in similar cases as Sir Richard Garth points out in the case of *Nundo Lal Bose* v. *The Corporation of Calcutta* (see I. L. R. 11 Calc. p. 281). I may further point out that the mode of assessment proposed to be substituted in this Bill also involves a difficulty, namely, that of ascertaining the amount of deduction for deterioration, which is certainly not less, and may often be greater, than the difficulty which is sought to be avoided. In the second place let us see how far the other objection is well grounded. It is said that if we are to assess houses built for purposes of residence on their expected letting value, the assessment may be far below what it ought to be. But on what principle? The majority of the Select Committee say on this principle, that we should adopt 5 per cent. on the cost price as the letting value. Nobody denies that that will give a valuation considerably above the expected letting value. But to infer thence that the existing assessment is too low is to beg the whole question. If 5 per cent. on the cost price is the proper basis of assessment, then no doubt anything less than that would be unjustly low. But is there anything in reason

The Motion being put the Council divided:—

Ayes 5.	*Noes* 8.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
The Hon. the Advocate-General.	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The Hon. Sir Henry Harrison moved that, for the first paragraph of section 117, the following be substituted:—

"The entire consolidated rate imposed upon bustee land and the huts built thereon shall, after deducting therefrom a sum equal to one-eighth of such rates, be paid by the owner of such land. The sum deducted shall be retained by the owner of the land as a set-off against the expenses which may be incurred in collecting the portion of the rate recoverable from the occupiers of the land, or the owners or occupiers of huts built thereon, under the provisions of the next succeeding section, and as a commutation of all refunds in respect of huts which are vacant, or which may be removed or destroyed during the continuance of the period for which the rate is imposed."

He said:—It is not intended to make any alteration in substance in this section, but it was considered by the learned Secretary to be an improvement in the wording.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison moved that, in line 1 of section 118, for the words "in such cases" the words "whenever a rate is imposed on bustee lands" be substituted.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison moved that, in line 7 of section 120, for the words "duly entered" the words "registered provisionally" be substituted.

He said:—This section is a reproduction of section 103A of the present amending Act, with alterations which are a little more than verbal. If the section had been acted upon, it might have led to a very serious abuse. If a person's name is registered as owner, it may assist him very much in borrowing money on that property. Now that we have a system of provisional registration,

[*Sir Henry Harrison; The Advocate-General; Babu Kali Nath Mitter.*]

the ... passed, the local authorities have the power of forcing the owners to com-
is ...d, and an abatement of 15 per cent. is allowed from the amount
...the rent for the cost of collection. It has been found necessary to make
...e owner compound. At present the tax gatherers have to go to all the
of smallest and poorest hut-owners to collect the rate, and afterwards the agency of the Warrant Department recovers the amount in addition to warrant fees. If any objection is taken, it ought to be to the amount allowed for collection, which is one-eighth of the total demand; and as a portion is payable by the land-holder, it comes to about one-sixth of what he has to pay for others. It is a fair allowance, and it does not throw upon him any additional expense, because he will collect the rate by the same agency by which he collects his rent. The whole of the subordinate agency of the Municipality will be kept away from the doors of the poorest inhabitants, and the amount of saving in time and establishment, but above all the saving in vexation, harassment, and even worse than that, which must necessarily result from poor ignorant people being brought face to face with the tax-collectors, will be considerable. I consider this provision to be fair, it is fully covered by English precedent, and is expedient in an eminent degree in the interests both of the poor and of the Municipality itself.

The HON. THE ADVOCATE-GENERAL said:—I wish to explain that the precedent which the hon. member in charge of the Bill relies upon does not apply in this case. In England all house property belongs to the landlord: in this country huts belong to the tenants. Everything put upon land in England belongs to the landlord: here huts belong to the tenant. And therefore, I submit, it is unfair to make the landholder pay for property of which he is not the owner.

The HON. BABU KALI NATH MITTER said in reply:—In this country the tenant is allowed to remove his hut: in England the landlord gets the benefit of permanent fixtures. My hon. friend, the member in charge of the Bill, has given a glowing picture of the harassment to which poor hut-owners are subjected by the Municipal agency; but does not he foresee the harassment to which they will be subjected by the sircars and durwans of the landholders? The landlords will have to pay the rate even when the hut-owner absconds. My hon. friend has not attempted to meet my argument that if the tenant absconds, how is the landholder to recover the money which he has paid? Moreover, the harassment and annoyance to which the hut-owner is subject will be nothing less because the agency is changed.

He said:—This is a mere verbal amendment. The purposes of clause (*a*) and (*b*) do not involve any expenditure, and I think the alteration in wording be an improvement. It was suggested to me by the Secretary.

The motion was put to the vote and carried.

The Hon. Babu Kali Nath Mitter moved that section 117 be omitted.

He said:—Persons should not be made to pay for what they are not liable. Hut-owners are properly liable to pay this rate; but by this Bill the owners of the land on which the huts stand will be made to pay. This again is a question of convenience. Suppose the landholder is not able to realise the rate? Suppose the tenant absconds? The rates have to be paid in advance, while rents are paid to the landholder in arrear, and he cannot realise it in advance. I think this provision is most arbitrary, and I cannot perceive any principle of justice in it. Precisely the same thing was attempted to be done on the last occasion. The late Hon. Kristo Das Pal took exception to it. The matter came up for discussion, and the hon. and learned Advocate-General then said:—"It appeared to him that the objections of the hon. mover of the amendment were really unanswerable. He had put it on the ground of principle, that the person to whom the hut belonged should be the person chargeable with the tax. The hon. member in charge of the Bill said that such a procedure would produce confusion. The Advocate-General did not think the Council should legislate simply for facilitating the collection of taxes, but they were also to see that the party from whom the tax came was the party from whom it should come." With that I will leave the matter in the hands of the Council; it is not possible to adduce stronger arguments. The result was that the amendment of the late Hon. Kristo Das Pal was carried.

The Hon. Sir Henry Harrison said:—I cannot accept this amendment, although I am aware that it had on a previous occasion the support of the learned Advocate-General. It is no new principle. It was in the Act of 1863 and in our present Act, but in an optional form, and it has not been acted upon, and therefore for some years we have collected from the smallest huts in the town. But that is not the principle elsewhere. Under the English law all the rates are paid by occupiers, so that you have much greater force of precedent. Nevertheless, in the case of small tenements, that rule is broken through. In the first instance it was done in the form of an appeal to the owners to compound for their tenants; but since the Act of 1869

ge of opinion to which my hon. friend refers, and it is this, that although we were 13 members on the Committee, and I was one of those who were in favour of a rate instead of levying fees, yet three of the most experienced Commissioners were against their imposition. I had then recently joined the Municipality, and opinions formed then were subject to change by the light of experience. I came across a very curious case where the owner of a very large tank called the Kurballah tank was called upon to pay a bill for night-soil service in respect of the tank, but when the matter came before the Commissioners, it was unanimously agreed that no fee could be charged unless the service was performed. The lighting-rate was justifiable because the value of houses enhanced owing to the lighting of streets. In the same way water-rate was paid because the supply of filtered water increased the value of property in the town. It is very remarkable that the very law under which the water-rate is levied makes a distinction in the rate levied in different localities. When the water-rate is levied at a maximum, houses situated in streets where pipes are not laid have to pay one per cent. less than houses on streets having water: in the one case the rate would be five per cent. and in the other six. Night-soil fees cannot come under the definition of a rate; it is only by a forced construction that you can impose a rate for house service. The rates at present payable by owners and occupiers are 7¾ and 9¼ per cent. respectively. If the past literature on the subject is studied, it will be obvious under what circumstances the owners of house property were made to contribute one-fourth of the water-rate. The question was decided by the casting vote of the President. Perhaps it is right that they should pay something, but one-fourth was an arbitrary proportion fixed by the Legislature. Under these circumstances, I submit it is only fair to a large number of persons in whose houses no service is performed that they should be relieved from paying this charge for house service. My hon. friend said that all persons must have their places of convenience. He forgets that persons who have shops have also houses to live in for which they pay fees for house service. Therefore I do not see how that argument advances my hon. friend's argument. I again submit that an inequitable rate should not be levied merely for the sake of the convenience of collection.

The motion was put to the vote and negatived.

The Hon. Sir Henry Harrison moved that, in clause (*d*) of section 103, for the words "above purposes" the words "specified in clause (*c*)" be substituted.

get anything like the amount of water they pay for? You ought not to adopt that principle to make temporary residents in the town pay anything on account of that part of the municipal income which is levied for the repayment of debt. Permanent residents of course benefit by the construction of permanent works; temporary residents derive much less benefit from them. If you once allow yourself to be drawn into that argument and insist on separate collections and collections according to some ideal of the extent to which persons are benefited, you will land yourself in unmistakable difficulties and inconsistencies. When the present system was introduced the Commissioners appointed a Committee to consider the question of the house service fees, and my hon. friend, the mover of this amendment, was a member of that Committee. I am not going to twit him with changing his mind, but I may appeal to his former judgment on the subject. Out of 13 members of the Committee all but three reported that it would be better to have a rate in preference to a system of fees, and my hon. friend himself was one of the majority. I say that this is a section which cannot be struck out without upsetting the whole arrangement of the Bill. It will remove from the poor a burden which they now in some cases pay to the possible point of 400 per cent. Therefore you see how very hardly the present system presses on the holders of small tenements, and it will be a very great relief to them if the Council accept the provision in the Bill which will have the effect of converting the house-service fees into a rate.

The Hon. Babu Kali Nath Mitter said in reply:—As the Hon. Member in charge of the Bill has referred to my opinion on this point on a previous occasion, I will meet him on his own ground and point out that what he now considers the most fundamental part of the Bill on which everything depends, was not contained in the Bill as submitted by him to the Council after having been agreed to by the Select Committee. There was no Halalkhor rate at all in that Bill, although the consolidated rate was to be found in it. The consolidation of the rates was adopted at my suggestion, but at that time there was no idea of introducing a Halalkhor rate. That idea dawned on the mind of my hon. friend after the Bill had been remitted to the Select Committee for various consideration of details. It was only when the Bill was being reconsidered on points of detail that this idea dawned on his mind. If it is such a fundamental principle, why did not my hon. friend propose it on the first reference of the Bill to a Select Committee? It passed the Select Committee and was laid before the Council without any such provision. There is one circumstance connected with my

ticular case. In this way, as one measure after another was introduced local taxation, it was adjusted in a different manner, and the result has been that with the legitimate object of adjusting taxation fairly, local taxation in England has reached a state of perfect chaos, and although we have not yet reached a similar state, the difficulty is very great indeed, and it arises from our endeavour to recover payment for house service only from houses in which house service is performed. Where you have 30 houses and 10 privies, it is very difficult to find out who ought to pay and who ought not. There is now not a Municipal discussion on a quarterly report in which the failure to work the cess successfully does not form the first and chief topic of comment. At least 10 per cent. of the bills are returned unrealised, on the ground that the persons who are required to pay are not liable. Local enquiries are made and lead to reports which are not accepted, and the whole subject gives more vexation and more trouble than any other matter connected with the administration of the Municipality. On the other hand, the trouble of making out the bills is extreme. The scale varies with every form of rent. In the Suburbs there are 23 scales; in Calcutta there are 20, acccording to the rating of the house. Then even in the matter of exemptions it is extremely invidious. The exemptions in the Suburbs are tanks, waste land, gardens, and shops without privies. Why should shops having no privies be exempted? The persons who occupy the shops are subject to the ordinary laws of nature; and as a matter of fact the only principle is this, that the town is for human beings and the Municipality has to undertake the task of removing the sewage for all, whether by means of drainage for connected houses, house service for unconnected houses, or public latrines where there are no privies at all. The one thing above all others to which attention is necessary is to make the municipal system work smoothly. In Mr. Goschen's Committee in 1871, this was the one point upon which they were most unanimous, and they recommended one consolidated rate. I have by me a handbook on local taxation by Wright and Hobhouse, and they write:—"There are some alterations in the system of local taxation in which all parties are agreed; one of which is the consolidation of the rates." That is now an accepted principle. Again, it is not possible in Municipal administration to apply generally the principle of taxing according to benefits. See how you break through that principle in the matter of the equal payment of water-rates. Do large business houses, the Port Commissioners, the Mint, the High Court,

collecting the fees due. No doubt there is considerable force in that arg[illegible] but I do not for a moment admit that that inconvenience justifies the adop[illegible] of a proposal which will make persons liable for payment who have not [illegible] pay anything. This liability will not be restricted to a few persons, but will fall on large numbers who are not now liable to pay anything. If this amendment is carried, I shall propose two sections to enable the Commissioners to levy fees from connected as well as unconnected houses, and so far as the revenue is concerned, the Corporation will not lose anything. It will only have the effect of applying a differential rate. To impose the same rate upon connected and unconnected houses will be totally unfair to the owners and occupiers of unconnected houses. It is also an objection that a large number of persons who have not to pay now will have to pay though no service is performed for their benefit.

The Hon. Sir Henry Harrison said:—If this amendment is accepted by the Council the results will be very embarrasing. This section is one of the corner stones on which the whole scheme of taxation rests. I do not know the views of other Hon. Members are; whether they are to any large extent in favour of the amendment. Therefore I shall have to set forth fully the reasons why this section should be retained as it stands. This is essential to the consideration of the scheme for the consolidation of the rates, and if it is not accepted the difficulty will be great. The principle of it is that you may collect all the rates by one and the same bill and by one and the same establishment, and then fairly divide them between owners and occupiers. But the amendment will destroy both these arrangements; it will prevent one collection and a fair and equal division between owners and occupiers. At present, as pointed out by the Select Committee in their report, by the Calcutta Trades' Association and by the Chamber of Commerce, the incidence of taxation is 9¼ per cent. upon owners and 7¾ upon occupiers, if you leave this occupiers' cess out of consideration. Fees for house service are entirely paid by occupiers; leaving them out, the proportion is as I have stated. But if you turn the house service fees into a rate you have a maximum of 10½ per cent. upon occupiers and the same upon owners, and then the fairness of an equal division comes in. Besides being very great importance must be attached to a diminution of the expense, vexation caused by the separate collection of fees of this kind. In Municipal establishments, especially in England, the first idea which naturally finds favour is to adjust the payment of the burden of taxation to e

[*Babu Kali Nath Mitter.*]

HON. BABU KALI NATH MITTER withdrew the amendment of which he gave notice, that the following section be inserted after section 100:—

"100A. The Local Government shall contribute to the Municipal Fund the sum of two lakhs of rupees per annum to be devoted to the improvement of the area added to the town by the Calcutta."

The HON. BABU KALI NATH MITTER moved that clause (*d*) of section 101 be omitted.

He said:—This refers to what is called the Halalkhor rate, and is the same as the fees levied under the present Act for removing night-soil. My objection to this being put under the head of rates is one of principle. Fees for service performed cannot be made the object of a rate. The basis of a rate is rent; unless there is rent there cannot be a rate. If that objection fails, there is the further objection that this rate will have to be paid by three classes of persons—persons who have got their water-closets unconnected, persons who have them connected, and persons who have no water-closets at all. It may seem a strange statement to make that there are persons in the town who have no water-closets at all, but in point of fact it is so. This is principally to be the case in places of business where different rooms of a house are assessed separately for the purposes of the assessment of the Trades and Professions Tax, and there are several persons in the house. The moment clause of section 101 is passed, they will have to pay a rate of two per cent. At present such persons do not pay any night-soil fees; no service is performed, and justly they ought not to be called upon to pay. Then again connected houses do not pay, but it has been very properly pointed out that the drainage works have been constructed at considerable expense to carry away the sewage of the town, and it is only fair that connected houses should make some contribution towards the maintenance of the sewers. But that unconnected houses should pay at the same rate as connected houses is, I think, far from right. The owners of connected houses have undergone very large expenditure to have their houses connected, and therefore they get the benefit of the sewers, and though it will be just to make them pay something for the maintenance of the sewers, to make them pay in the same way as unconnected local taxes seems unreasonable. I cannot understand on what principle persons have never hitherto paid night-soil fees, and for whom no service is performed, should have to pay simply for the convenience of the Corporation. The argument for the imposition of a rate is simply this, that there will be a saving of trouble and expense in preparing bills for house service, and for

hon. mover of the amendment is not agreeable to that, he should oppose the amalgamation altogether. With regard to the remark of my hon. friend, that the present insanitary condition of the Suburbs is the result of the neglect for years past, it should be remembered that it is really due not to any neglect of the Municipality, but to the want of funds. His own argument went to show that the insanitary condition of the Suburbs was due to want of funds and not to the want of proper supervision.

The Hon. Sir Henry Harrison said:—I need not say more than that, as Your Honour remarked, the proposal of the Hon. Member appears to me to be unworkable. Every salary paid to the Municipal officers and every payment made to the Municipality will have to be divided. My idea is that the town will not want any safeguard, as with a little care nothing will be more easy than for them to protect themselves. The body which will really want protection will be the Suburbs; and as they will be brought in from outside and engrafted on to a system in full working, it will be necessary that their representatives should look closely to see that they are getting their share.

The Hon. Babu Kali Nath Mitter said in reply:—I do not possess the experience which the hon. member in charge of the Bill does, but to my mind it seems that there cannot be any difficulty in carrying out the sections I have proposed. Moneys are now being collected and duties totally distinct are being performed yet under the same authority. The water-rate, the lighting-rate, and the general rate are separate funds; yet there is no difficulty in working, and why should there be any further difficulty in working on the lines I have suggested. That portion of the objection I think is more imaginary than real. As to the remark that the Town Commissioners will be a stronger body, I do not see how that has anything to do with it. To me it seems possible that the Town Commissioners may wish to devote a portion of the funds of the Town for the benefit of the Suburbs. In the Statement of Objects and Reasons accompanying the Bill, the Hon. Member said that "care has been taken to protect the rate-payers of the Town against loss owing to the diversion of these rates and taxes to the benefit of the new area to be added to Calcutta." That being stated in the Statement of Objects and Reasons of the Bill, I cannot understand why there should be any opposition to inserting a section in the Bill affirming that principle.

The motions were then severally put and negatived.

[*Babu Kali Nath Mitter; The President; Dr. Gooroo Dass Banerjee.*]

terms, if we can come to a compromise on this point, surely the English language will enable us to enunciate a principle which is just, and I do not think there will be any difficulty. Therefore, on that footing, I am ready to meet my hon. friend for the purpose of seeing whether we can come to a compromise.

His Honour the President said:—I think the objects of the two sections are really incompatible. The object of the Hon. Babu Kali Nath Mitter is, that you should spend nothing on the new area which should come out of the pockets of the rate-payers residing in the old area. He says, if you will undertake to do that, we will undertake to give a guarantee that the police contribution shall be spent in that way and in no other. Speaking for myself, I think that to put in the Bill a section making it illegal for the Municipality to spend on the objects of the new area any portion of the funds raised in the old area will make the whole thing unworkable. The Commissioners will have to keep separate accounts, and when you come to distribute the establishments, it will be almost impossible to make the distinction. And I may add that I think the Municipality is strong enough to distribute the funds in such a way as not to give the new area any advantage over the old. I think it will be advisable, as the Hon. Member has said, that we should leave the section as it stands.

The Hon. Babu Kali Nath Mitter said in reply:—What Your Honour has recorded will be quite sufficient for my purpose. I am quite willing that the matter should stand over now. I understand from Your Honour now, that you affirm the principle that no portion of the funds of the town shall be applied to the improvement of the added area.

His Honour the President said:—What I distinctly refused to affirm is any legal restriction enforcing that principle.

The Hon. Dr. Gooroo Dass Banerjee said:—I wish to make one observation in the interests of the newly-added suburban area. It will be most unfair to it to tie up the hands of the new Municipality in this way. The amalgamation scheme has been accepted for the sole purpose of enabling the municipal improvement of the Suburbs to be undertaken, which could not be done if the Suburban Municipality had been left unaided by itself. If the proposed section is allowed to stand, there would really be no amalgamation at all; at best there would be federation of the two Municipalities. When the strong and the weak go in partnership, the strong must assist the weak; and if the

Rs. 38,000. And I may mention that previously in 1883, Sir Rivers Thom adoi relieved the municipality of an equal sum of Rs. 38,000 on condition of not being devoted to the water-supply and other works of sanitation. The total sum is Rs. 3,84,000 for the whole of Calcutta and the Suburbs. But as the portion of the Suburbs, which will not be included in the Calcutta Municipality, is, if I recollect rightly, in the proportion of 12 to 26, the amount of which the Government will relieve the area to be included in the Calcutta Municipality will be about Rs. 3,55,000 a year. In addition to that I may mention that this Bill will involve a relief to the Howrah Municipality of Rs. 11,000, which will be made available for expenditure on works of water-supply and sanitation.

The Hon. Sir Henry Harrison said:—I would ask whether, after the statement which Your Honour has made, it will not be better to reserve the discussion till the section which you read out is proposed. It nearly covers the same ground, and the objections are not objections in principle, but the section prescribes a course which in practice it will be difficult to follow. It will be better if the Hon. Member sees the section proposed to be introduced, and then moves any amendment he thinks necessary to effect the further purposes which his section is intended to embrace. He wishes to make it compulsory by law for the Commissioners to spend on the added area no larger sum from the revenues of the town than the sum of which they are to be relieved from payment on account of the police charges. I think the practical difficulty of making that a legal obligation is so great that I could not undertake to support such a provision. The Hon. Member himself perceived the objection when he said that it was the principle he wished the Council to adopt, and that he was open to an alteration in the wording of the section. It seems to me that the objects it is intended to accomplish are beyond the possibility of being expressed in the imperative manner in which he desires to do so. I wish to know if the Hon. Member will accept the suggestion I have made.

The Hon. Babu Kali Nath Mitter said in reply:—If there is any chance of coming to an agreement on this point, I am quite willing to postpone the discussion on this matter. But the section which Your Honour has read makes the Commissioners responsible for devoting a particular sum of money for the improvement of the added area. There it stops. It does not go further. It takes the restriction from my section, puts it in the Bill, and excludes the privileges. I do not consider that a right course to adopt. If I am wrong, it is for

impossible to give more. I may mention that I do not think I can allow the additional provision proposed by the hon. mover of the amendment, as it is contrary to the section in the Indian Councils' Act, which allows no measure affecting the public revenues or any charge which would be imposed on such revenues, to be put without the previous leave of the Government.

There is one other point it is well I should mention now, as the proposed section 100B gives me a better opportunity of doing so than at any other time. The Government of India, in agreeing to give Rs. 2,00,000, saddled it with two conditions, one of which you have already heard, namely, that we shall not put a tax on petroleum while the Government of India taxes it, and then that we shall give some guarantee that the sum so contributed in lieu of the cost of the Calcutta Police will be devoted to expenditure on works of sanitation, and will not eventually be diverted from such purpose and be applied to a reduction of such taxation. It is just such a guarantee which section 100B, moved by my hon. friend, proposes to give. I have been in consultation with my hon. friend, the member in charge of the Bill, on the subject, and he thinks as I do, that this guarantee ought to be given, and he will propose to put it in the Bill as cl. No. (7) at the end of section 37 in a slightly different form, viz., "devote to th. • rovement of the area newly added to Calcutta by this Act not less than Rs. 3,..,000 annually from the receipts of the revenue funds described in sections 102, 103, and 105 of this Act; provided that the instalments of interest and reserve fund payable on any capital sum expended under clauses (3), (4) and (5) of this section, for the improvement of that area, shall be taken as part of the Rs. 3,00,000." It will probably be desirable that the Council should see this section and have an opportunity of considering it. Therefore my hon. friend will not ask you to vote upon it now. But in case you do not accept section 100B, or in case it is withdrawn, the provision to which I have referred will be brought forward after the Council have had an opportunity of considering it.

The Hon. Mr. Macaulay said:—The precise figure in regard to the in alcutta Police charges of which the municipality will be relieved has been stated tie u Rs. 2,80,000. I think that figure is taken from the figures of a year before schei ons were made on account of the mounted police. As a matter of fact impro current year the contribution payable by the Government is Rs. 1,02,720, if the sequently the amount payable by the municipality is Rs. 3,08,158. section is to that there is now the charge on account of the Suburbs, viz.,

ment of India are prepared to take over the entire charge of the contribut[illegible] for the police, a charge which was stated at the time to be Rs. 3,00,000. Th[illegible] runs all through the correspondence, and when I took up the subject it ha[illegible] already very far advanced, so far in fact that when the Select Committee submitted its report, it did so on the assumption that this contribution of three lakhs had been settled. It was only during my absence in Chota Nagpore that I learned that the Government of India were of opinion that this assumption was without any sufficient foundation. On going into the official papers on record, I am bound to say that the Government of India had always carefully guarded themselves from consenting in so many words to undertake this entire charge, although they had always accepted the principle of bearing a portion of the charge. As soon as I returned and found this situation of affairs, I took immediate measures to get the matter definitely considered and settled. The result of the further consideration on the part of the Government of India was that the Imperial revenues will contribute Rs. 2,00,000 towards the police charges of the municipality. No more. It then became a question for me to consider what was to be done—whether to ask you to go on with the Bill and hand over the added area to the municipality with diminished means to meet the charge, or whether to abandon it altogether, or to await the result of our deliberations as to whether the Provincial revenues are going to bear the burden. Last year I do not think the Provincial revenues could have done it; but fortunately by dint of hardheartedness on the part of the hon. the financial member on the left (Mr. Macaulay) we have accumulated sufficient to give an extra contribution from the Provincial funds. As to this extra contribution which will be given from the Provincial funds, my hon. friend will explain further what the total burden of our contribution will be. But it includes the police charges which we have already relieved the Suburbs of, and part of which have accumulated from year to year with a view to furnish a water-supply to the Suburbs, a statement which the Hon. Member omitted to mention. With reference to the amendment now before the Council, I presume the hon. member in charge of the Bill will say how far he thinks it is possible to work it. It seems to me it will involve an almost impossible practical difficulty in working. I only wish to put the Council in possession of such information as I can as to the Rs. 3,00,000 are to be given, and to assure the Council that, although the Provincial revenues will gladly give the additional Rs. 1,00,000, it is [illegible]

to
re, and yet in the estimate for this additional Rs. 6,00,000, which the Local Government considered would be needed for the improvement of this area, 2½ per cent. house-rate is taken into calculation. That, I submit, is entirely a mistake. Therefore it seems to me absolutely necessary that a section of the sort I propose should be introduced in the Bill to protect the rate-payers of the town of Calcutta. If, with the maximum rates from the added area, it be found impossible to do all that is needed, the responsibility will not rest with the Commissioners of Calcutta, but with the Government, and I wish that to be stated in the Bill as clearly and definitely as possible. Now it is proverbial that the added area is in an extremely insanitary condition, and this has been brought about not by the neglect of a few years, but of ages. This area is now to be placed under the administration of the town which has done a great deal to improve its sanitation, but has not yet done all that is necessary. Therefore it cannot be said that the area to be made over to the town is precisely in the same condition as the town, and on these grounds I submit that care should be taken to make it as clear as possible that no portion of the funds of the town will be diverted for any of the purposes of the added area. Under these circumstances, I move that section 100A be added to the Bill, but I have no objection to any improvement in the drafting of the section which may appear necessary to the learned Secretary of the Legislative Department.

If section 100A is accepted by the Council, it will be necessary to insert also section 100B, and I put it on precisely the same footing. If these sections are adopted, I do not propose to raise a discussion by moving my next amendment, viz., that the following section be inserted:—

"The Local Government shall contribute to the Municipal Fund the sum of two lakhs of rupees per annum, to be devoted to the improvement of the area added to the town of Calcutta."

My object is simply to put on record that if the funds available are insufficient for the proper municipal administration of the added area, the responsibility will not rest with the Commissioners.

HIS HONOUR THE PRESIDENT said:—I think it will help somewhat to the
tie on of this section if I put the Council in possession of the gist of the
sch pondence with the Government of India on the subject of this contribution.
imp Bill has been before the Council about two years. When it was intro-
if by my predecessor Sir Rivers Thompson, it was introduced on the assump-
seas you will see from the Statement of Objects and Reasons, that the Govern-

streets. For all these purposes, it will be necessary to set apart at least Rs. 1,00,000 for interest and sinking fund on loans. This is a very moderate estimate, and there is every prospect of its being exceeded. Then we have Rs. 8,50,000 left. I have prepared a statement showing the different items of expenditure, and it is a very moderate estimate. The annual cost of distributing water, according to Mr. Buckley's estimate, will be Rs. 47,380, and of providing a large main will be Rs. 21,000. At present the scheme is to supply only two million gallons of water, but the Corporation of Calcutta has contracted to give a supply of four million gallons; and if we really want to improve the sanitation of the added area, it will be necessary to give at least four million gallons of water; so that the figures will be doubled, and the amount for this purpose will be Rs. 1,37,684. Then the establishment charges will be Rs. 40,538, maintenance of roads Rs. 3,50,000, conservancy Rs. 34,000, house-service Rs. 2,00,000, charges of collection Rs. 12,000, additional lights Rs. 75,000, watering streets and so on Rs. 50,000: the present contribution hospitals is Rs. 4,560, cost of vaccination Rs. 3,431, education Rs. 4,000. ese items make up a total of Rs. 9,14,832. But this does not take into account a ex,penses incurred for the erection of latrines and for the opening out of drains. of If these are done out of capital, perhaps Rs. 1,00,000 will, for a few years, suffice. be We have therefore Rs. 9,14,000 against an asset of Rs. 8,50,000. This is ay, a moderate estimate on the basis of the expenditure in the Suburbs at present, increasing it of course to the extent necessary. For my own part, I think that is this estimate of Rs. 9,14,000 is not a sufficient estimate, and I would not nt put down the expenditure at less than Rs. 12,00,000 per annum. I think ed that is the conclusion also to which the Local Government arrived when this et matter was placed before it. After reviewing the report of the Amalgamation in Committee, the Local Government pointed out that although the Committee he did not in so many words state the amount of expenditure which the munici- ir pality would have to incur, it came to the conclusion that the sum which should be provided for was Rs. 6,00,000. Although by the Statement of Objects and Reasons of this Bill, no portion of the funds of the town is to be applied for any of the purposes of the added area, yet in making provision for the additional sum of Rs. 6,00,000, Rs. 2,50,000 of the house-rate was ould be into consideration. That is entirely opposed to the scheme of the Amalga- tion Committee. The funds of the town are to be applied for the bene sec ion the town, excepting the amount of relief which the Government is abo

of this sort should be introduced into the Bill because it is anticipated that the funds which are likely to be placed at the disposal of the new municipality will not be such as to enable it to administer to the wants of the added area in a satisfactory manner. The Amalgamation Committee thought that the revenue, which it would be possible to obtain from such added area, would be Rs. 6,00,000: that was the figure they put down in their report. I think that that was a sanguine estimate. I have since been in consultation with one of the Commissioners who takes an active interest in the affairs of the Suburbs, and from the figures with which he supplied me, the conclusion I have come to is that it will not be possible to obtain more than Rs. 5,00,000 from the added area. But even supposing that my figures are wrong, and that the expectation of the Amalgamation Committee is realized, we have Rs. 6,00,000, from revenues; to that has to be added Rs. 2,80,000, which is the amount of relief the town of Calcutta will obtain from not being required to contribute to the Police Fund, besides Rs. 25,000, the amount of rating to the added area on the same account; and if we add also Rs. 75,000 to be realised from a tax on petroleum, the prospect of realising which is as distant as ever from what has fallen from Your Honour, the whole amount available for expenditure on the added area will come to about Rs. 9,50,000. The question is whether that sum would be sufficient to administer the municipal affairs of the added area? I am deliberately of opinion that it will not be sufficient. The first thing to be done will be to construct reservoirs for filtered water, to lay down distribution pipes, and to pay for four million gallons of water which the Suburbs will take from Calcutta. That contribution will amount pretty nearly to Rs. 2,00,000. An estimate has, I understand, been prepared, which shows that the cost of laying down pipes will be somewhere about Rs. 7,00,000; then there will be charges for the distribution of the water, which will be a serious item of expenditure at the very outset. It will of course be necessary, as far as the works for the water-supply and other improvements are concerned, to raise a loan for the purpose; and therefore out of this estimate of Rs. 9,50,000, at least Rs. 1,00,000 will have to be set apart for the payment of interest and for a sinking fund the loans to be raised for the water-supply, for the construction of latrines not aware that there is any large number of latrines in the added area), for drainage of the area, and for opening out new roads. If you really wish prove the added area, the first thing to be done will be to open out new s: you will not be able to effect any improvement unless you open out new

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 8.
The Hon. H. Pratt.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. C. H. Moore.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Moulvie Abdul Jubbar.	The Hon. Babu Kali Nath Mitter.
The Hon. C. P. L. Macaulay.	The Hon. Sir Alfred Croft.
The Hon. the Advocate-General.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER moved that the following new sections be inserted after section 100:—

"100A. It shall not be lawful for the Commissioners to apply the rates, taxes, fees, and other income belonging to the Town of Calcutta to the area added to the said town for any of the purposes contemplated by this Act, save and except the sum of Rs. 2,80,000, being the amount which the Local Government has relieved the said town from contributing to the expenses of the police maintained by the said Government.

"100B. The Commissioners shall yearly spend for the area to be added to the Town of Calcutta the whole of the revenue to be derived from the said area, including the sum of Rs. 2,80,000 referred to in the preceding section, the sums which may be raised under the provisions of section ninety-nine of this Act, and any sum which the Local Government may, with the sanction of the Supreme Government, contribute to the Municipal Fund."

He said:—The object of the insertion of the first of these two sections is to prevent any confusion ensuing as to the division of the funds of the present town of Calcutta, for any purpose contemplated by the Act, to the added area. The Amalgamation Committee in their report distinctly pointed out that one of the conditions on which the amalgamation should take place was that there should be no diversion of the funds of the town for the benefit of the amalgamated area. In the concluding portion of paragraph (15) of their report, they say—"It should, in our opinion, be accepted as a definite principle that the scheme of amalgamation is not to involve the town in any heavier charges than the town is now legally liable to bear." And in the Statement of Objects and Reasons appended to the Bill it is said that the Government of India having approved in general terms of the principle that no portion of the revenues and funds belonging to Calcutta should be diverted for any purpose to the added area, it is necessary that a section

principle of octroi in Bengal, I said that this led from the proposal regardin petroleum. I fully recognize that an octroi may be levied on petroleum withou the general objections to the impost. I quite recognize that the minute regu lations regarding import and storage and transport offers facilities for it. T would raise the price no doubt, but beyond this I think it is as nearly as possibl an ideal octroi. But, I would ask, if on petroleum, why not on salt? Salt i also subject to minute regulations, and certainly, apart from the objections t the levy of municipal taxation concurrently with imperial taxation, it woul be as easy to levy an octroi on it as on petroleum. Then, why not on coal Coal, it is true, is not subject to minute regulations. But it enters the cit in bulk by rail, or sometimes by boat, and an octroi could easily be levied on it What I contend is that if an octroi is admitted on petroleum, it will b extended to other articles. Throw in the stone of octroi, and there wi be the ever widening circles of petroleum, then salt, then coal, and s forth.

As regards my hon. friend's argument that because increased revenue i necessary, those who oppose an octroi on petroleum are bound to propose a sul stitute, this seems to be an argument that should be addressed rather to th Government of India than to the Council. But as a matter of fact, as I shall hav occasion to show later on, the amount of which Government is relieving the ne Corporation of police charges will actually amount to precisely the figur which has been suggested as the increased income required. This is Rs. 2,80,00 for police, and Rs. 75,000 for petroleum. It will be found that the Governmer relief would amount to at least Rs. 3,55,000. I have only referred to th circumstances of Bengal municipalities, because I thought that that argumen was enough to convince the Council apart from the general objections to octr in India. But even if the circumstances were the same, I think they would b wise to avoid the difficulties which the Bombay Chamber of Commerce has foun in Bombay, and Sir John Strachey found in the North-West. It is true that th Government of India has taken exception to the proposal only on the groun that municipal taxation cannot be allowed to be concurrent with Imperi taxation. But as the Government of India has admitted octroi generally i other provinces,—though, as I have shown, with constant attempts to subje it to regulations,—it could not well forbid it in Bengal. This, it appears t me, is a matter for the Bengal Council.

argument of the hon. member in charge of the Bill is unanswerable. For my own part, although I think it may not do much good at present to retain these sections in the Bill, and although I do not think that Sir Henry Harrison, notwithstanding his sanguine temperament and the force of his eloquence, will be able to persuade the Government of India that they are wrong and he is right, still I think there is no objection to give him the opportunity he desires.

The HON. MR. MACAULAY said in reply:—With the President's permission, I will say a few words in closing the debate. My hon. friend, Sir Henry Harrison, has said that one of my arguments, or rather one leg of my argument, is an appeal to *vis major*. In fact, however, I used no argument at all in regard to the Government of India's decision. I merely stated the fact, and I think that, from the terms of that decision, there appears little hope of its being reversed. My hon. friend desires to use another *vis*, and to have the means of applying a lever to the Government of India. The question is whether the Council will place such an implement in his hands. There is another point in this part of the hon. gentleman's speech to which I must take serious exception. Sir Henry Harrison has said that the Select Committee had been told that if the octroi sections were accepted, the Government of India would veto the Bill. Now, in the first place, it appears to me to be an unusual and inconvenient course that any words used informally in Select Committee by one member to another should be officially stated to the Council. In the second place, I said nothing of the kind in Select Committee. I distinctly said that I did not speak on any official authority, but only mentioned that one member of the Government of India had said that he thought it likely that that Government would take exception to these sections. I believe that my hon. colleagues on the Select Committee will confirm what I have said. My hon. friend (Babu Kali Nath Mitter) assents. I need therefore say no more on this point.

Now as regards the main question, I regret that I shall have to imitate my hon. friend in his argument. I must, I fear, answer him with a *tu quoque*. My hon. friend said that I avoided the question of petroleum to deal with another question. But my hon. friend has also avoided the real drift of my argument. He has not observed that, though my argument was purposely directed against the general

must not tax petroleum any more. And no doubt people interested in the trade of petroleum look with some trepidation to an additional tax being thrust upon it, although for local and not for imperial purposes. It has just the same effect upon the trade for whatever purpose the tax may be levied. But whether that be so or not,—whether it be the case, as I suppose, that nobody would ever have heard of any serious objection being taken if it had not been for the imperial tax levied by the Government of India—I want to point out that the Government of India's objection merely applies to the superimposition of this tax over and above their own. If their own tax be taken off—and although I do not say it is likely, I have been reminded that the Government of India has been known to take off taxes—then they will not object to our tax being levied. I think that stands clearly in the letter which I have just read to the Council, and that shows, it seems to me, that there is equally good reason for keeping in these sections in their permissive shape in order that, should that good time ever come, it may be taken advantage of without fresh recourse to legislation. Of course it may be objected, as the hon. mover of the amendment probably will object, that the theory being wrong in principle, the question whether the Government of India thinks fit to levy an imperial tax on petroleum or not makes no difference, and that even if they take off their tax, the municipality ought not to levy a municipal tax upon petroleum. On that point I have listened with great interest to what the Hon. Member said on the subject of octroi generally, but it seems to me that his argument that it is objectionable in Bengal generally really amounts to this, that octroi duties are objectionable only so far as your towns are not conveniently situated to watch the ingress and egress to such towns, but in towns where you can watch the ingress and egress of goods without having recourse to any very large protective staff, the objection, so far, will be removed. Therefore the objection is not a universal objection of principle, but an objection as far as the cost of levying octroi duties is concerned. And, as the hon. member in charge of the Bill has pointed out, that objection, as applied to the levy of a duty on petroleum introduced into Calcutta for consumption, falls to the ground. For it is quite certain to all who pursued the subject that, so long as the restrictions to which the importation of petroleum is subjected by law, for the purpose of safety to the public, are in force, so long as the existing establishments and regulations are kept up, you do not want that army of peons which otherwise would be necessary for the imposition of a tax on petroleum brought into Calcutta. I think that on that point the

[*Mr. Pratt; The President.*]

The HON. MR. PRATT said:—I venture to say that I also am commissioned by the Calcutta Trades' Association to add my opposition to the passing of this section of the Bill. The imposition of a tax on petroleum was considered before the letter of the Government of India had been received. At that time there was no intention, as far as they knew, of imposing an Imperial tax on petroleum, and not much attention was paid to the subject. The Imperial tax on petroleum, we think, is quite enough.

HIS HONOUR THE PRESIDENT said:—I think perhaps it may help matters if I explain exactly what the position of the Government of India is in respect to these sections as they stand in the Bill. The Government of India said:—"They involve the affirmation of a principle hitherto opposed to the policy of the Government; but as the clauses are permissive and the previous sanction of the Local Government is required before the power which they confer can be exercised, the Governor-General in Council will not insist on their being withdrawn. It will be understood, however, that the consent of the Local Government to any proposal to impose a municipal tax in any form on petroleum will not be given without the previous sanction of the Governor-General in Council of India." And in addition to that, in the same letter they make their contribution to the maintenance of the police depend on no municipal duty being levied on petroleum as long as it is subject to an Imperial customs duty. For the present, therefore, although we have had a very interesting discussion on the subject, it seems to me rather of an academical than a practical interest. Because it is perfectly clear from the letter of the Government of India that though we may keep our section if we like, the Government of India will not give us permission to make use of it. The question which then arises, is whether it is worth while to keep the section in the Bill; and although I regret exceedingly to find myself not in accord with such powerful bodies as the Chamber of Commerce and the Calcutta Trades' Association, still I feel inclined to come to the assistance of the Municipality on this subject, and to explain the reasons why I prefer to keep the section as it stands in the Bill. You have been told what the history of these sections is. How it was a resource unanimously agreed upon by a tolerably strong and representative Committee and accepted by the Government. I do not think, although of course I cannot be sure, that any objection to this section would have been heard of if it had not been that the Government of India had been beforehand with us. They took the wind out of our sails and imposed an Imperial tax on petroleum, and they say is enough, you

either the Chamber of Commerce nor the Calcutta Trades' Association have bjected to it till within the last few weeks, is it reasonable now to strike out this ction without suggesting any substitute? I hope the Council will do nothing cripple the new Municipality by closing its mouth. Give them the opportunity making out a case to the Government of India, and I am confident that ey will be able to make out such a case that in spite of the present intention the Government of India, they will be obliged, by the force of justice and ason, in a few years to give permission to raise this tax.

The HON. MR. MOORE said:—I wish to say a few words merely to explain hy I support this amendment. The arguments which the hon. mover of the nendment has used have entirely convinced me that this section of the Bill ould not be allowed to stand. What I wish, however, specially to say is that a presentation was made to me by the Committee of the Chamber of Commerce, soon as they knew that this question was to be discussed, to the effect that ey are very strongly opposed to this tax. The hon. member in charge of e Bill has complained that the Chamber of Commerce have not up to this me said anything against this proposal, but I do not see any reason why they ould not do so now. Continual changes are going on in the Bill, and it is possible for any one to say until an actual debate comes on what will ventually be done The very question of the separation of the offices of hairman of the Corporation and Commissioner of Police was believed to have een settled finally, and yet it was re-opened twenty-four hours only before is Council met and discussed it. The Octroi Committee, to which the Hon. Member has referred, were unanimously of opinion that no form of ctroi was to be recommended. The members of the Committee, it ought to e remembered, included members of the Chamber of Commerce, the Calcutta Trades' Association, and the British Indian Association. I gather that the gene- al view of the whole of the Committee was opposed to an octroi in any form hatever, and in their first recommendation to tax petroleum I read only a kind f compromise, as they thought it necessary to recommend some fresh tax for Municipal wants. The member in charge shakes his head, and I cannot now ppeal to the members of that Committee to ascertain their actual views, but hatever they were, the views of the present Chamber of Commerce are very listinct, and they oppose this tax strongly. They represent the views of an nfluential body, and I hope they will carry due weight when this amendment s put to the vote.

single subject of taxation, except one, on which we could agree, and regard that one, after discussing it fully, there was not one dissentient voice. Now what was the reason for this? It was unanimity that petroleum being supposed to be a dangerous article is so watched by the law at present at every step, that you can impose a duty upon it without putting on it one single restriction more than what is already put. Is it possible to make out a stronger case? At the present time you cannot introduce petroleum into Calcutta without permission and only under special conditions. You have a depôt for the storage of petroleum far from the Town; you must have a license from the Police for the storage of petroleum in Calcutta; you cannot transport it without a license. So that we have already a complete check on the receipt of petroleum, on the storage of petroleum, and on the transport of petroleum, and consequently we have nothing more to do than to take things as they stand and at a convenient point, when the transport license is given, to impose this duty. The proposed duty on petroleum is so small, it is so easily levied, and the article is so valuable as compared with the duty, that the danger of confiscation is quite enough to prevent any attempt at evasion of the duty, without the necessity for any army of peons and other underlings, or the watching of canals and khals or roads and bye-ways, which is the spectre which my hon. friend has conjured up a reason for not allowing the imposition of a municipal tax on petroleum; and I feel certain that the growth of the trad is such, that the imposition of a small fee in addition to the Imperial duty in no way protect other oils or prejudice the trade in petroleum. That so, and a tax on petroleum being recommended unanimously by a Comm specially appointed for the purpose of seeing what extra taxation can be l for municipal purposes, I ask whether it does not stand on very strong ground, and the least that can be done by any person who wishes to dethrone the proposal from its present position is to show where a substitute is to come from. Taxation *per se* is an evil, and every form of taxation is objectionable in some sense. But taxation is a relative evil, and merely to urge that it is not good is no sufficient argument. After the whole subject has been threshed out by a representative Committee appointed for the purpose, and after this form of taxation has been unanimously recommended, and has had the approval of the Commissioners, is it reasonable for a member of the Council to urge that it is a bad form of taxation, but that he has nothing better to suggest? Seeing that it is now two years since this Bill was placed before the public, and that

heir view of the equity of allowing this tax on petroleum? I believe hat a case so strong and so forcible can be placed before the Government for llowing this tax that, knowing how open they will be to reasonable conviction, f this provision remains in the law not many years will pass before the view of he Government of India on the subject will be changed. If the Council will gree to retain this provision in the Bill, we are confident that we shall be able o make out so strong a case that in a very few years the Government of India vill allow the levy of this tax. The letter from the Government of India eems to assume that this section will remain in the Bill. Then we have the trong fact that it is in the Bill in Bombay. Bombay levies a duty on spirits n Bombay, although spirits are taxed by the Imperial Government. Bombay as now in their Bill [section 190 and the schedule] the very same tax which ve propose to levy on petroleum; they have a duty of two pice per gallon, vhich comes to about four annas per case. Is it reasonable to suppose that the Government of India will treat Calcutta on one footing and Bombay on nother; and provided we can show that the tax will be levied with no harshness xcept the harshness of having to pay, and without any other particular harassment, is it reasonable to suppose that the Calcutta Corporation will be refused vhat is granted to the Bombay Corporation?

I then come to the question of octroi, and here I maintain that our position is so unanswerable that my hon. friend is obliged to take up the ground, which is not the ground upon which it is put, that an octroi is unsuitable to municipalities in Bengal. He says that under the circumstances of the case an octroi is so unsuitable to Bengal that it ought not to be introduced. I grant all that. But what is the ground we put forward? It is that the case of petroleum is so exceptional that none of the objections to the introduction of octroi duties, generally, apply to it. We challenge discussion on that ground. But my hon. friend evades that ground, and says that the objections which apply to octroi duties must apply to petroleum. How far is that correct? The history of the case is this. A Committee was appointed by the Government of see how the income of the Calcutta Municipality could be increased, and on Mun Committee there were representatives from almost every class of the appea nity. Besides myself, there was on that Committee Mr. Craik, Babu whate Churn Law, Mr. Morrison, Babu Kali Nath Mitter, Babu Jadoo Lall distin , Mr. Wallis, and Mr. Buckland who acted as Secretary. After sitting influ times and threshing out the question in many forms, we found not a is p

"the cost of collecting establishment must be excessively high, and quite out of due proportion to the receipts." I maintain that such a tax collected by such an agency will, under the appearance of indirect taxation, have all the worst evils of direct taxation. If it is urged that the question before us concerns the levy of octroi in Calcutta only, I would answer that in the first place Calcutta is such a town as I have described. I would remind the Council of the speech of my hon. friend opposite (Mr. Allen) at the last meeting. He pointed out that on this Bill becoming law the boundary of Calcutta on the Ballygunge side will be, not even a village, but a series of paddy fields. Again, if we affirm the principle of octroi in Calcutta, I cannot see how we can refuse it in Howrah, Patna, Dacca, and other towns. Here I will borrow a metaphor of which my hon. friend Sir Henry Harrison is so fond. My friend does not like the closing of doors. Here, however, is a case, not of closing a door which might afterwards be opened, but of opening a door, taking it off its hinges, and carrying it away. Such will be the result of introducing any form of octroi in Bengal. If you admit it in Calcutta you will have it throughout the country. Apart, therefore, from the general question of the economic effects of octroi, I would urge that the tax is unsuited to the towns of this Province, and I ask the Council to affirm this principle by omitting these sections.

The Hon. Sir Henry Harrison said:—I much hope that the Council will not accept this amendment, which will very seriously cripple the new municipality. My hon. friend has supported his amendment on two legs widely different in character. One is the *vis major* of the Government of India. We are told that it will be a condition with regard to this Bill that no duty shall be levied on petroleum so long as a duty is levied on that article by the Supreme Government. When we were in Select Committee it was thought probable that it would involve the rejection of the Bill altogether. I am pleased to find from what has been now said that the form of opposition has toned down, and that the exercise of the power reserved by the Government of refusing permission to raise this tax will be the means of preventing it. But is it just to suppose that the Government of India is so opposed to the proposal that they will not be open to conviction, or that there will be no changes in the *personnel* of that Government? Has the case that can be made out for putting a levy on petroleum in Calcutta ever been put before the Government of India? Has the Corporation had the chance of impressing upon the Government of India

of the section as it stands, under which the storage of petroleum in transit is to be altogether prohibited in Calcutta. This will no doubt prevent the octroi from becoming a transit duty. But it seems to me to guard against the risk of one evil by ensuring the existence of another. It prevents a difficulty being placed on trade by a transit duty by placing another difficulty on trade, by preventing merchants dealing with a department of commerce which is increasing in volume every day, from transacting their business at a reasonable distance from their offices. They will have to conduct their operations from a distant depôt, miles out of the town, when, in the area to be included under the Bill, there are places well suited for the purpose. These, however, are not the points which I wish now to urge upon the Council. My objections to the duty are based on broader principles. I maintain that in Bengal, owing to the circumstances of the country and towns, an octroi cannot be levied without the certainty of oppression and corruption and of harassment of the people. Towns in Bengal are not walled or even compact; they are open and straggling, and the most experienced officers of the Government have expressed strong opinions against the imposition of this form of taxation in towns. In 1868 the Commissioners of Divisions in Bengal reported against it. I will read to the Council the opinion of Sir Ashley Eden, on the Bill introduced by Sir John Strachey in 1879 to regulate the levy of octroi. Mr. Mackenzie's letter of 18th December, 1879, said :—

"The only suggestion which the Lieutenant-Governor has to make is that the Bill should be specifically declared not to extend to the Province of Bengal. It has repeatedly been shown that an octroi duty is not adapted to the circumstances of Bengal towns and villages, and the Lieutenant-Governor can imagine no form of impost which would be more objectionable here. Both Sir Cecil Beadon and Sir William Grey condemned proposals to introduce these duties into Bengal. The general voice of district and divisional officers was against them when Sir George Campbell sought to embody them in his (vetoed) Municipalities Bill of 1872, and Sir Ashley Eden would be very sorry to see any attempt made to re-open the subject so far as this province is concerned."

As I have said, our towns in Bengal are really a series of straggling houses. They are approached by roads and paths, creeks and khalls, and if you are to have an octroi in them, you must have an army of underpaid subordinates to collect the tax at their own sweet wills from the people. To collect an octroi a large staff must be maintained, and, as was pointed out by the Government of India in 1884, the cost of this staff will be unduly high. "In a large open city, moreover," wrote the Government of India,

the Council that a decision of the Government of India has been communica
to the Local Government since the Select Committee decided to adopt the
sections. In reference to the question of the contribution from Imperial revenue
towards the cost of the police charges, the Government of India have state
that the contribution now assigned to Provincial funds has been fixed on th
understanding that petroleum stored in Calcutta shall not be subjected t
municipal taxation so long as it is subjected to an Imperial Customs duty. I
other words these sections, if adopted by the Council, will remain, for a
any rate a considerable period of time, a dead letter. The question th
naturally arises, why not leave them out? My hon. friend, Sir Henry Harris
following the line of reasoning he adopted on another question at our la
meeting, will probably rejoin, why not leave them in? My answer is that
the principle of an octroi in Bengal is involved. I apprehend that more than
one of my colleagues on the Select Committee voted for the inclusion of these
sections because they were reluctant to deprive the new municipality of one
means of increasing its income which we should all be glad to see augmented.
But now that the hope of an increase from this source is removed, they may
perhaps change their views. We can put aside the supposed interests of the
municipality and look solely to the principle involved. The question comes up
on the simple issue whether an octroi can be properly levied, I will not say in
Calcutta alone, but in the municipalities of Bengal; and I am glad that the
question has been brought to this plain issue. I will not trouble the Council
with a disquisition on the arguments for or against an octroi tax. Hon.
Members are doubtless well aware of them. On the one hand, if it can be
secured that only the fixed rate, and no more and no less, will be levied on
articles consumed by the people of a municipality, then octroi will be not only
not an objectionable, but a most admirable tax. On the other hand, we know
from the many Resolutions of the Government of India that it not only has a
tendency to become, but does generally in practice become, a transit duty and
a burden on trade. An instance was given by Sir John Strachey in 1879 w
a municipality from which cotton was exported charged octroi on the iron brou
in for hooping the bales, but refused a refund when it went out on the bales.
Many other instances were brought to the notice of Government by the
Bombay Chamber of Commerce; which strongly protested against the abuses
which the octroi system had given rise to in Bombay municipalities. I shall not
dwell further on this point, nor shall I dwell upon the very peculiar provision

Extract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *and* 25 *Vic., Cap.* 67.

The Council met at the Council Chamber on Thursday, the 12th April, 1888.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.

The Hon. G. C. Paul, C.I.E., *Advocate-General*.

The Hon. H. J. Reynolds, C.S.I.

The Hon. C. P. L. Macaulay, C.I.E.

The Hon. T. T. Allen.

The Hon. Sir Henry Harrison, Kt.

The Hon. Sir Alfred Croft, K.C.I.E.

The Hon. Moulvie Abdul Jubbar.

The Hon. Babu Kali Nath Mitter.

The Hon. Dr. Mahendra Lal Sircar, C.I.E.

The Hon. C. H. Moore.

The Hon. Dr. Gooroo Dass Banerjee.

The Hon. H. Pratt.

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The Hon. Mr. Macaulay postponed the presentation of the Report of the Select Committee on the Bill to amend the Bengal Municipal Act, III of 1884.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The Hon. Sir Henry Harrison moved that the clauses of the Bill to consolidate and amend the law relating to the municipal affairs of the Town and suburbs of Calcutta, as further amended, be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The Hon. Mr. Macaulay moved the omission of sections 99 and 100 from the Bill (sections relating to the imposition of a duty on petroleum).

He said:—In order to clear the way for the discussion, I may as well inform

The consideration of the further clauses of the Bill was postponed to the next sitting of the Council.

The Council was adjourned to Thursday, the 12th April, 1888.

CALCUTTA;
The 24th April, 1888.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 2879G—300—21-5-88.

The Hon. Babu Kali Nath Mitter said:—I also think that the imposition of a penalty and the amount of it should be left to the discretion of the Court; and as the Bill provides for the appointment of a special officer for the trial of municipal cases, I hope there will be no more further cause for complaint.

The Hon. Sir Henry Harrison said:—It will be obviously a one-horse arrangement if we accept this amendment for this part of this chapter when we have rejected a similar amendment for an earlier part of the same chapter.

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 7.
The Hon. H. Pratt.	The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. Sir Alfred Croft.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. Sir Henry Harrison.
The Hon Babu Kali Nath Mitter.	The Hon. T. T. Allen.
The Hon. Moulvie Abdul Jubbar.	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds
	His Honour the President.

So the Motion was negatived.

The Hon. Sir Henry Harrison moved that, in section 91, for the words "the names of all persons residing in such house" the words "the names of all male persons residing, or carrying on any trade, profession or calling in such house" be substituted.

He said:—I move this amendment, because I am told that there the native community have an objection to give the names of the female members of their families.

The motion was put to the vote and carried.

The Hon Sir Henry Harrison moved that, for the last paragraph of section 96, the following be substituted:—

"The total net proceeds of the fees half-yearly received by the Commissioners for the registration of carts, after deduction of the charges incurred on account of such registration, shall be divided between the municipalities of Calcutta and Howrah, and such municipalities adjacent to Calcutta and Howrah as the Local Government shall declare entitled to a share in such receipts, in such proportion as the Local Government may (from time to time) determine."

He said:—The present rule is to deduct the charges incurred in collection before dividing the proceeds; but that condition has been omitted in the section. The object of the amendment is to supply the omission.

The motion was put to the vote and carried.

[*Sir Henry Harrison; Dr. Gooroo Dass Banerjee; Moulvie Abdul Jubbar.*]

The Hon. Sir Henry Harrison moved that, in line 9 of section 85, for the words "establishes his claim" the words "satisfies the Commissioners that he is entitled" be substituted.

He said:—This is only a verbal amendment.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison also moved that, in the second paragraph of section 88, for the words "next after the day of the granting thereof, and no longer" the words "of that year" be substituted.

He said:—This is also a verbal amendment.

The motion was put to the vote and carried.

The Hon. Dr. Gooroo Dass Banerjee moved that, for section 90, the following be substituted:—

"Whoever exercises any trade, profession or calling without the license required by section eighty-seven, on or after the first day of July in any year, shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, and not being less than such amount. And such fine shall, when levied, be taken in full satisfaction of the demand on account of such license."

He said:—My reasons for this amendment are similar to those which I urged in support of the amendment I moved in section 80. Among the Hon. Members here present there are some who exercise professions and callings, and ve to take out licenses, and I put it to them to say how far they have been ctly punctual in taking out their licenses. I do not mean to encourage of punctuality or to suggest that in any case they have failed to take eir licenses on due date in wilful disregard of the law, still there have bly been instances where, from forgetfulness or other cause, there may been delays, and I say that the Courts, and not we here, are the best es as to what penalty, if any, should be inflicted in each case. We have told by the hon. member in charge of the Bill that the Magistrates who e these cases generally act too leniently. If the Courts are badly con-d, the remedy lies not in making the law too severe, but in the remodel-f the Courts.

e Hon. Moulvie Abdul Jubbar, in supporting the motion, said:—I know ses in which persons who are prosecuted have failed to pay their ply on account of poverty, and in such cases I do not think it he hands of the Magistrate should be tied by hard-and-fast be left to exercise his own discretion in each case.

Reg. No. 1087.

the cart may be there, and may be willing to pay the license fee. Now observe the extremely small power which we ask for with regard to carriages and animals. The reason for this provision has not been stated by my hon. friend. It is to meet a difficulty which is very great in finding out, in a chummery, for instance, or any place where many persons reside, who is the owner of a carriage or animal found there. The license officer prosecutes, but has no evidence; and if he does produce evidence, he is probably misinformed. It is one of those powers which if granted is its own remedy. If the Inspector cannot find to whom a carriage or horse belongs, he can apply to the Chairman or Vice-Chairman and explain the circumstances; and if the explanation is satisfactory, an order will be issued. Where is the hardship of attaching the property: the owner or person in charge has nothing to do but to pay the amount of the license fee? This is a curious illustration of the remark I have made before, that the Commissioners themselves are not anxious to be vested with powers: it is one of the curious illustrations of the working of the municipality in Calcutta. I submit that the power is a very reasonable one and should be granted.

The Hon. Babu Kali Nath Mitter said in reply:—In the section to which my hon. friend has referred, the order of the Magistrate has to be obtained before the cart can be sold: whereas in the section under consideration there is no such provision. Besides, there is a great distinction between a carriage or horse and a cart. As regards the one, there may be difficulty in ascertaining the owner or the person in charge; in regard to the other, there should be no difficulty whatever. If the Inspectors did their duty, there should be the slightest difficulty to find out who the owner or the person in charge of a carriage or animal is.

The Motion being put, the Council divided:—

Ayes 4.	*Noes* 8.
The Hon. H. Pratt.	The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

.here may be no necessity to have recourse to it. It is the duty of the Inspectors who are appointed by the Commissioners to find out the owner of the carriage, and they will have very little difficulty in doing so if they go to work properly. Whenever there might be the least difficulty, there would be a written order authorizing such officer to take possession; the carriage and horse will be placed elsewhere, and expense will be thrown upon the owner. The Commissioners enjoy plenary powers in this matter; they can prosecute and have offenders fined; all they have to do is to prove their case. In order to justify a change of the law on this subject, it will be necessary for the Commissioners to make out a very strong case, and to show that they suffer loss of a considerable amount of revenue from want of a power of this kind. I am not aware that any considerable amount of revenue is lost on this ground; it may be that a very small sum has been lost, but that will not justify the grant of this extraordinary power to seize property for non-payment of license fees. I think the provision is erroneous in principle. It will be practically attachment of property without the decree of a competent Court. When a fine is levied by the Magistrate, the Court has power to seize the carriage or animal, and have it sold in realisation of the fine, and further the Commissioners have power to sue and obtain a decree and attach the property. But to be allowed to seize property without having recourse any of these methods, simply because the Inspector has not been able to find owner, is asking a great deal too much. If proper exertions are made, the or ought to be able to find the owner or the person in charge of the carriage imal. A carriage or a horse must be in charge of some one, and there should be difficulty in finding out in whose possession the carriage or horse is. es as to so, a prosecution can be instituted and a fine levied, but to have told by such exceptional legislation is unnecessary and undesirable, and I am e these c this provision is passed into law the power thereby conferred will ed, the rely used without proper enquiry being made to find out the owner. f the Court pint out that as such provision does not exist in the present law, e Hon. strongly opposed to it.

HON. SIR HENRY HARRISON said:—This is a very good illustration of the s difference with which the law is regarded, according as it affects the rich or. Let me refer the Council to section 98. That section authorises Reg. No. cioners to seize and detain any unregistered cart, and to sell the same d within ten days. Here there is no necessity for a written order; s, moreover, are required to assist in the seizure. The owner of

[*Babu Kali Nath Mitter; Sir Henry Harrison.*]

The HON. BABU KALI NATH MITTER said:—The next amendment which stands in my name is on the same lines. I am quite willing that the amendment should be in the terms of the amendment just moved, and I shall withdraw the amendment on section 80 of which I gave notice.

The HON. SIR HENRY HARRISON said:—We find by experience that the Magistrates almost invariably impose no fine at all, and this reduces the matter to a farce. If the section contained in the latter part of the Bill, authorizing the Government to appoint a Magistrate to try municipal cases is agreed to, then the amendment now before the Council will be of minor importance; but as things stand, whenever the Municipality depends upon prosecutions for the recovery of its revenue, it is simply paralysed. From all departments of the Municipality the same cry arises. The leniency of the Court is so great that it is absolutely no sanction at all, and the Act becomes a dead-letter. The same difficulty occurred in reference to non-registered coolies in the municipal market, the Magistrates having inflicted fines of only one or two annas. The minimum fine is introduced to prevent the systematic omission to take out licenses.

The Motion being put, the Council divided:—

Ayes 4.	*Noes* 8.
The Hon. H. Pratt.	The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER moved that the second clause of section 84 be omitted.

He said:—The second clause of this section provides that if the Commissioners at any time find any carriage or animal in respect of which ... taken out a license has been obtained, the Commissioners may, if the person ... name of Raye. the possession of such carriage or animal is unknown, by a written ... when ise any of their subordinate officers to take possession of such carriage or animal. This is a new provision: it does not exist in the present Act. ... this kind is objectionable, because in the first place it may be resorted to ... or ani-

[*Sir Henry Harrison; Dr. Gooroo Dass Banerjee.*]

questioned, said the license was not taken out; and notwithstanding these facts the view of the Court was that it was a most scandalous prosecution, and the license officer was fined Rs. 25. I cannot conceive a more erroneous feeling than that which animated the Courts with regard to the License Inspector as a wrong-doer. Soon after that case we had a precisely similar one, and the charge was dismissed. In a precisely similar case in England, the defaulter admitted that the license was omitted to be taken out, but for not nearly so long a period. A prosecution was instituted simply on the ground that the time for taking out a license had lapsed. In that case the prosecution was instituted after the license had been taken out and was produced, and that showed the widely different view taken of the matter in England. I maintain that the principle of this amendment is a very important one.

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 7.
The Hon. Sir Alfred Croft.	The Hon. H. Pratt.
The Hon. Sir Henry Harrison.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. C. P. L. Macaulay.	The Hon. C. H. Moore.
The Hon. H. J. Reynolds.	The Hon. Dr. Mahendra Lal Sircar.
His Honour the President.	The Hon. Babu Kali Nath Mitter.
	The Hon. Moulvie Abdul Jubbar.
	The Hon. T. T. Allen.

So the Motion was negatived.

The Hon. Dr. Gooroo Dass Banerjee moved that, for section 80, the following be substituted:—

"Whoever owns, or is in charge of, any carriage or animal without the required license shall be liable to fine not exceeding three times the amount payable by him in respect of such license, and not being less than such amount. And such fine shall, when levied, be taken in full satisfaction of the demand on account of such license."

He said:—I move this because I think it unnecessary and undesirable to provide by law a minimum amount of fine in so far as such fine is a penalty and not merely in liquidation of the demand of the Municipality. The section in the Bill provides that the minimum amount of fine shall be one-and-a-[illegible] such amount, so that, whenever there is a prosecution, in addition [illegible]eing imposed to the amount of the license fee, a further fine [illegible] amount at least will have to be imposed. That I think is [illegible] and undesirable. It ought to be left to the discretion of the Court [illegible]ther the penalty part of the fine is to be substantial or nominal, or [illegible] at all. We need not tie the hands of the Court.

[*Babu Kali Nath Mitter; Dr. Gooroo Dass Banerjee; Sir Henry Harrison.*]

certain number of days, he will be liable to prosecution. I will refer to a case which happened a short time ago. A member of the Bar was prosecuted for not having taken out a license, but it appeared that he had taken out a license. [His Honour the President—After the prosecution was instituted.] I cannot say personally whether it was so or not in that case, but I believe that many cases of that sort have happened. When parties were prosecuted they produced their respective licenses in Court, and the Magistrate dismissed the cases, remarking that the license officer had failed in his duty. I think that if a person, before prosecution, takes out a license, he should not be prosecuted. If the section is allowed to remain in its proposed form, it will be quite possible, notwithstanding the statement of the Chairman to the contrary, that such a person will still be liable to prosecution, and I think that is not desirable. I still hold the opinion that when a prosecution has been set on foot, the Commissioners should not treat the prosecution as a farce, take the money, and then allow the prosecution to be struck out: the case should be prosecuted to a conclusion. That is in respect of persons who take out licenses after prosecution. But where a person has taken out a license before a prosecution is instituted, it will be a very harsh proceeding that he should be prosecuted for the lapse of a few days; and that can be done under the wording of this amendment.

The Hon. Dr. Gooroo Dass Banerjee said:—I think the last clause of the proposed section is objectionable on another ground. It is wholly unnecessary, because section 80 provides that, whoever owns, or is in charge of, any carriage or animal without the required license shall be liable to a fine. The mere fact of owning a carriage or animal without a license makes the person liable to a fine.

The Hon. Sir Henry Harrison said in reply:—The objection which has been taken on the question of principle is not a new one. The Bill already provides that a license may be granted for a previous year. The prosecution will not be brought until the person who is liable to the tax has neglected for the whole of the period to take out a license. After that, if the Commissioners think it right to prosecute, then the prosecution ought not to be dropped, because the person has subsequently taken out a license. But take the case of a person being prosecuted; he promptly runs to the office and takes out a license. That I say should not be allowed. I do not think I know a case more in point than that of Mr. Roy. After the prosecution was instituted he takes out a license in the name of Boy, he being prosecuted in the name of Raye. The license officer thinking the name of Raye to be an English name when

up the defence that he is exempted from the tax, unless he previously sends in a statement.

The HON. SIR HENRY HARRISON said:—There is no intention to do so; but persons cannot then complain, as they do now, of having been molested.

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 7.
The Hon. Moulvie Abdul Jubbar.	The Hon. H. Pratt.
The Hon. Sir Alfred Croft.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Sir Henry Harrison.	The Hon. C. H. Moore.
The Hon. C. P. L. Macaulay.	The Hon. Dr. Mahendra Lal Sircar.
His Honour the President.	The Hon. Babu Kali Nath Mitter.
	The Hon. T. T. Allen.
	The Hon. H. J. Reynolds.

So the Motion was negatived.

The HON. SIR HENRY HARRISON moved that, for section 79, the following be substituted:—

"Whenever any person shall pay to the Commissioners the amount of the tax which shall be payable by him for the current half-year in respect of all carriages and animals kept in Calcutta, the Commissioners shall grant to such person a license to keep such carriages and animals during that half-year.

"A license may at any time be granted for any previous half-year for which no license has been taken out on payment of the amount due for that half-year.

"But the production of such license shall not afford a valid defence, if the licensee is prosecuted for failing to take out a license within the time required by this Act."

He said:—This is only a verbal amendment by the addition of the last clause; for the rest, the section has been shortened in the wording. So far from these sections having been discussed and re-discussed in Select Committee, my difficulty has been that I have never been able to get as much assistance in the settlement of this chapter of the Bill as in the others. The part relating to the trades and professions license, which is full of pitfalls, was passed by the Committee almost without a word. I cannot, however, complain that the Select Committee had sufficient confidence in me to adopt it on my responsibility, but the result has been that it has not been considered, and I think it better, even at the last moment, to bring forward these amendments.

The HON. BABU KALI NATH MITTER said:—If I understand this amendment rightly, one point is this, that if a person takes out a license in November, and he is prosecuted in December, still because there has been default for a

He said:—At present great difficulty arises from persons who are prosecuted for not having taken out licenses claiming exemption under one or other of the exemption clauses. It would be much fairer if such persons claimed exemption at an earlier stage. It is not at all the rule that statements are sent in by persons owning carriages and horses; but statements are left to be filled up, and thus opportunity is given for claiming exemption. As to the second clause of the section, the person in possession is bound to pay, whether the owner is or is not in Calcutta.

The HON. MR. ALLEN said:—The objection I have already taken to amendments of this kind being brought at the last moment applies equally to the present amendment. It is certainly extraordinary that after two years' meditation, and after the Bill has been altered by the Committee to suit his views, the hon. member in charge of the Bill should suddenly have new light drawn on him. It is only about four weeks since he himself signed the report of the Committee advising the Council to pass the Bill then sent up. Independently of the merits of the amendment, I say that the Council ought not to accept it at this stage. The Select Committee has most carefully discussed every section of the Bill, and has sent in their report and the revised draft Bill, and the Council is asked on the opinion of a single member to adopt this amendment. Without going into the merits of the question, I say that the Council should not do so. But as to the merits, the amendment simply says in more words what is already said in the sections of the Bill as they stand. I can see no necessity for, nor advantage in, making this change.

The HON. SIR HENRY HARRISON said in reply:—The Hon. Member has himself proved my case; nobody is liable to pay for carriages and animals which, though used in Calcutta, are not kept in Calcutta. As to the rest, the alteration is a very substantial one, and is made both in the interests of the persons concerned and the License Department of the Municipality. Hitherto persons not liable to pay the tax were not liable to send in a statement. Not having sent in a statement, the person is prosecuted on the supposition that he is liable to the tax; he then claims exemption under one of the clauses of section 77. The object is to compel every one who owns or has in charge a carriage or animal to send in a statement, in which he should set forth the ground upon which he is exempted from liability to payment.

The HON. MR. REYNOLDS said:—I do not quite understand whether the Hon. Member means that a person who is prosecuted is not to be allowed to set

[*Sir Henry Harrison.*]

The HON. SIR HENRY HARRISON said in reply:—The hon. member did not say what the definition of "person" in the General Clauses Act is. I do not see anything unreasonable in a joint-Hindu family taking out a license. This amendment has been before the Council for many days: it is not sprung on the Council at the last moment. It has been adopted by me in consequence of representations made by the department concerned, that many Honorary Magistrates refuse to interpret the word "person" as including a company or joint-Hindu family. I am, however, willing to withdraw the amendment at this stage of the proceedings and bring it on afterwards if it is thought necessary.

The motion was then, by leave, withdrawn.

The HON. SIR HENRY HARRISON moved that, for section 78, the following be substituted:—

"The owner or person in charge of a carriage or animal kept in Calcutta shall, before the first day of May and the first day of November in each year, forward to the office of the Commissioners a statement in writing signed by him, containing a description of the carriages and animals owned by him or in his charge; and if he claims exemption under any of the clauses of section seventy-seven, noting the grounds of such claim.

"If exemption be not claimed, such person shall, if he is the owner of the carriages or animals, or if the owner is not resident in Calcutta, at the same time pay to the Commissioners such sum as shall be payable by him for the half-year commencing on the first day of April or on the first day of October (as the case may be) for the carriages and animals specified in such statement according to the rates given in the Fourth Schedule.

"If the person forwarding the statement be not the owner, and the owner is resident in Calcutta, such person may, at his discretion, instead of paying the tax due, state the name and address of the owner.

"Any person who becomes the owner, or who takes charge of any carriage or animal kept in Calcutta after the first day of May, or the first day of November in any half-year, shall, within a week of his becoming owner or taking charge thereof, send in a statement as in the first clause of this section, and if liable to pay the tax for such carriage or animal under this section, shall pay the whole of the tax for the then current half-year according to the rates specified in the Fourth Schedule.

"The Commissioners may, if they are satisfied that any such carriage has not been used within the half-year, or that any such carriage or animal has been kept for only a portion of the then current half-year,

refund, or remit the whole, or such portion thereof as they may think fit, of the amount so payable.

"For the purposes of this section, a livery stable-keeper shall be deemed to be the owner of every animal in his stables."

Hon. Member objects, I shall ask the Council to consider them. I have put the first of those amendments at the head of the chapter, but it has been pointed out that some objection might be taken to its application to the carriage and horse tax. I move first that, at the end of section 77, the following definition be inserted:—

"'Person' in this Chapter shall include a Company, Firm, Association, or Hindu Joint-Family."

The HON. MR. ALLEN said:—I think the members of the Select Committee may complain of amendments of this kind being sprung upon the Council at the last moment without having been laid before the Committee. The significance of the amendment may be very much greater than the Hon. Member anticipates. The definition of "person" is given in the General Clauses Act of the Government of India. It applies to Acts passed only by the Government of India, and therefore it may be said to have no force in regard to Acts passed by this Council: yet as a principle of interpretation it would apply. Now as to the particular cases to which the proposed definition is intended to apply. This is a chapter dealing with the carriage and horse tax, and the trades and professions tax, and it is difficult to see in what way the definition would apply. The word "person" occurs in only a few sections in the chapter. The obligation to take out a license for a carriage or animal is imposed on the owner or person in charge. Primarily the obligation is upon the owner; secondarily on the person in charge. Under the amendment the "person in charge" in section 78 would include a joint-Hindu family; so that the joint-Hindu family would be required to forward a statement in writing containing a description of the carriages and animals in their charge which are liable to the tax. And in the section in which the penalty is imposed (section 80), the word "person" does not occur. When you come to the next part of the chapter, which relates to the tax on trades, professions and callings, great confusion will be caused by the introduction of this amendment. A joint-Hindu family having taken out one license, every member of it will be at liberty for the payment made on account of it to carry on a trade, profession or calling. I think it will be very unwise to accept definition like this at the last moment, because it may considerably embarrass the working of the Act. It is an unprecedented occurrence for a member who has for a year and half been drafting the language of an Act, and after it has been discussed and re-discussed in Select Committee, to propose an amendment of this kind without affording proper opportunity for its consideration.

a very important matter, being not merely estimates, but sanctions on different heads as well. A separate Budget Committee is now appointed by the Commissioners in meeting, and is subject to all the difficulties to which the appointment of such Committees is subject. The list of members must be prepared by some body or be drawn by ballot; sometimes the Commissioners get out of the difficulty by asking the Chairman to select the members of the Budget Committee. I cannot say that the present system is altogether bad. But when you have a General Committee which understands what the wants of the town are, and which in some sense will be a representative Committee, it will really make a better Budget Committee than a Committee chosen by four or five leading Commissioners. I think the proposed amendment not an amendment in the right direction, though it is not a matter of great importance. The General Committee, I consider, ought to be the Budget Committee.

The Hon. Babu Kali Nath Mitter said in reply:—I certainly think that some members of the General Committee ought to be members of the Budget Committee, and also some members of the Bustee Committee; some members from each of the standing Committees should be on the Budget Committee. There is always some difficulty in selecting the members of Committees; and if it is considered desirable that the Budget Committee should be appointed by ballot, I shall have no objection. My experience is that there are some members who, though not on the Town Council, would make excellent members of the Budget Committee, and whom it would be desirable to have on that Committee, and now that the members of the elected and nominated Commissioners on the General Committee have been reduced to 12 and 6 respectively, it will be still more desirable that some of the outside members should be appointed as members of the Budget Committee. I do not ask this as a matter of favour, I consider it a matter of vital importance.

The motion was put to the vote and negatived.

The Hon. Sir Henry Harrison said:—I come to the amendments now, notice of which was given only this morning; but as far as I can judge, they are in the nature of details involving no important principle: they are chiefly matters regarding the working of the Office, as to which I have received help from the Vice-Chairman and some of the Commissioners, as well from some of the officers of the Corporation. Several of them introduce amendments which will be conducive to the good working of the departments concerned; and if no

[*The President; Babu Kali Nath Mitter; Sir Henry Harrison.*]

[HIS HONOUR THE PRESIDENT intimated that he could not give that permission.]

The Motion being put, the Council divided :—

Ayes 9.	*Noes* 3.
The Hon. H. Pratt.	The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Gooroo Dass Banerjee	The Hon. Moulvie Abdul Jubbar.
The Hon. C. H. Moore.	The Hon. T. T. Allen.
The Hon. Dr. Mahendra Lal Sircar.	
The Hon. Sir Alfred Croft.	
The Hon. Sir Henry Harrison.	
The Hon. C. P. L. Macaulay.	
The Hon. H. J. Reynolds.	
His Honour the President.	

So the Motion was carried.

The HON. BABU KALI NATH MITTER moved the following amendments :—

That, for the first paragraph of section 64, the following be substituted :—

"The General Committee shall ordinarily meet once a week for the transaction of business. It shall transact such business as may be expressly referred to it by the Corporation, or as may not be referred to any other standing or special Committee."

Also that, in line 3 of section 65, after the word "Commissioners" the words "a Budget Committee for preparing an annual budget, and" be inserted.

Also that, in line 1 of the third paragraph of section 70, after the word "to" the words "a Special Committee to be called the Budget Committee" be inserted; also that, in line 1 of the fourth paragraph of the same section, for the word "general" the word "special" be substituted.

He said:—Past experience has shown that it is desirable to have a separate Budget Committee, because there are some Commissioners who may not be members of the General Committee, but who may be [illegible]t qualified for the Budget Committee. The object of the amendment is to [illegible]ude the annual budgets from the consideration of the Town Council, and to le[illegible] the Commissioners at liberty to appoint a separate Budget Committee.

The HON. SIR HENRY HARRISON said:—This is not a very important matter, and I cannot say I strongly deprecate it. But the principle seems to me to be wrong. We have a General Committee which will have to deal week by week with financial questions, and no doubt, being a Finance Committee, it will pay special attention to the consideration of the budget, which is

twelve or fourteen members present, but not with a much larger number. I think therefore that, all things considered, we must abandon the principle of one member for each ward, now that we shall have such a large number of wards; but on the other hand it will conduce to convenience if we agree to accept the grouping of the 25 nominated members, and the selection by them as a body of those who should represent them on the General Committee.

The Hon. Babu Kali Nath Mitter said—I have carefully listened to the speech of the last speaker. He is slightly in error in stating that it will be necessary for the Chamber of Commerce to elect one of their own representatives to act on the General Committee. The Bill says: "One shall be nominated by the Chamber of Commerce, one by the Calcutta Trades' Association, and one by the Port Commissioners," so that the nomination is not limited to any particular person. Any of those bodies is at liberty to name any one they please. That being so, I do not see much force in the observation of my hon. friend as to any modification in the way proposed by him. He has thrown out a hint that possibly there would be no objection to 24 members on the General Committee; that is the largest number he would agree to. Twenty-four to my mind is certainly a better number than eighteen, because I certainly think it will be an advantage to make as many Commissioners as possible conversant with the working of the affairs of the Corporation. If there are only twelve elected Commissioners they will virtually be the governing body of the Corporation. If eight of them agreed together they would practically be able to carry everything before them; but if the number is larger it will be impossible to form small parties, and there will be the advantage of some of them giving independent views. That is a decided advantage which ought to be secured if possible. The Chairman of the Corporation no doubt would be better pleased to have the number reduced as much as possible, because he would have a small body to deal with, and he would be able to persuade a small body better than a larger one. That I can well understand, but we should not forget that the exclusion of those members from the General Committee who take an active interest in the affairs of the Corporation will necessitate warm discussions at the General Meetings of the Commissioners, which should be avoided as much as possible, and the effect of having a large number on the General Committee will be to avoid such discussions. If my amendment raising the number to 30 is lost, I claim permission to propose a further amendment that the number be raised to 24.

other Commissioners not elected under clause (1). Though there is a certain advantage in having one member from each ward, I do not attach anything like so much weight to it as the two Hon. Members who preceded me have done. We can always invite one or both members of a ward when any thing local has to be discussed. By far the greater number of questions do not affect any particular ward, and there is really too much isolated ward interests as opposed to the general interests of the Corporation. As regards the principles of legislation, I am decidedly opposed to what the Hon. Dr. Gooroo Dass Banerjee has advanced. I think it shirks a fundamental principle. If you allow the whole body of Commissioners to elect to the General Committee, you will not get a proper representation of the minor bodies. Suppose a native gentleman was sent in by the Chamber of Commerce, would it be right and proper that that very one should be selected without any malice *prepense* by the whole body of Commissioners to represent the Chamber? On the last occasion of election to the Town Council, two gentlemen, one of whom would have been a most proper representative, and another who would not, were nominated. Of the nominated Commissioners, the one who was not so good a representative had more friends among the elected Commissioners, and he got one or two more votes; the majority did not wish to exclude the Eurasian gentleman, but they wished to have their friend; and that is sure to happen if you allow election in that way. Therefore you should allow the elected members to select their representatives, and the other classes theirs. The representatives of the Chamber of Commerce, the Calcutta Trades' Association and the Port Commissioners are in the same class as the Government nominees, and it would be better if representatives from all these classes were elected by the general body of nominees. On the other hand, it will not always be convenient to do otherwise. Take the case of the two members of the Port Commissioners. It is quite possible that neither of them may be able to afford the time, when perhaps a second member of the Chamber or of the Trades' would serve the town better. I can assure the Council that they will get better representatives of all the bodies if you allow them to be elected by the 25 Commissioners. For the rest, I consider that we might possibly go up to 20 or even 24, but a Town Council of 30 members has often been found to work very inconveniently. We have no set discussions, and we often have separate discussions in each corner of the room going on at the same time, because everybody cannot find an opportunity of getting in his word. The work is, however, best done with

be secured by giving the right of election to the General Committee to the Corporation at large, instead of dividing the Corporation into groups, and asking each group of Commissioners to elect their representatives. On all these grounds I ask that my amendment be accepted. It is in certain respects an improvement on the last proposed amendment. It carries out to the full the suggestions as to the necessity of each ward being represented, where my hon. friend's amendment stops short at a certain point. As regards the number of the Committee, my amendment is open to objection, but this is but a trifling one when it is remembered that instead of having a town consisting of six square miles as we have now, we shall have a new town of, I believe, 18 square miles.

The Motion being put, the Council divided:—

Ayes 4.	*Noes* 8.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The Hon. Sir Henry Harrison moved that, for the second paragraph of section 63, the following be substituted:—

"The General Committee shall consist of eighteen Commissioners, of whom twelve shall be elected in such manner as the Commissioners in meeting may direct by the Commissioners elected under clause (1) of section 8.

"And six shall be elected in accordance with such rules as the Local Government may prescribe by the Commissioners nominated under section 7, and elected under the last clause of section 8."

He said:—I shall take advantage in moving this amendment to comment also on the amendments of the two preceding speakers. It is true that there is some advantage in having one member from each ward, but the views of the Commissioners are so pronounced in favour of keeping the present wards, that we have now 25 wards, and I look upon a Town Council of 37 members to be quite out of the question. I look upon a Town Council of 30 members as half-and-half; nor does it give adequate representation to the

Committee, then in almost every case, and particularly in cases involving conflict of interests, wards, other than those the members of which are elected to the Committee, will be most imperfectly represented. That is not a desirable state of things. The second reason is that by having each of the wards represented on the General Committee, we afford greater facilities to the rate-payers to get their local grievances redressed than we can by having a General Committee constituted in the manner proposed in the Bill. That is a reason which has already been alluded to by the Hon. Member who moved the last amendment. So that we ought to have 25 members on the General Committee out of 50 elected Commissioners. To keep up the proportion as nearly as possible, 10 more members should be selected from amongst the 25 remaining Commissioners. The number would thus rise to 35. I know it may be said that when a Committee consists of a large number of members work is done less quickly than in a small Committee. That may be true to a certain extent, but we should bear in mind that this loss in time will be more than compensated for by gain in efficiency and in public confidence in the decisions arrived at by the General Committee, and therefore we should not object to any little loss of time on this score. I may be permitted to add that it is as true in machinery municipal as in machinery mechanical that gain in time is always joined with loss in power and efficiency, and conversely. There is another point worth noticing. My amendment, subject to certain conditions, gives a voice to every member of the Corporation in the selection of the Executive Committee, whilst the provision in the Bill leaves to different sections of the Corporation the right to elect their respective representatives in the Executive Committee; and what is worse, in one instance, in the instance of small electoral units, such as the Chamber of Commerce, the Calcutta Trades' Association, and the Port Commissioners, it gives the power of electing representatives of representatives not to these last-mentioned representatives, but to the original electors themselves. That, I consider, is wrong in principle. It is allowing the original electors an interference with the working of the electoral body after that body has been constituted. I may also point out that my amendment has this additional advantage. It cannot be denied that though it is necessary in the first instance to have every sectional interest, geographical or otherwise, represented in the general body of the Corporation, on the Executive Committee of that Corporation those members will work best who are most void of party spirit, who are not the least animated by party interest; and that can only

doubt on some occasions, when matters of great importance come to be discussed, there was a full attendance of members, and it might be that on such occasions some inconvenience was felt by the Chairman owing to the presence of the large number; but considering that many of the persons who attended on such occasions are those who were in the habit of taking great deal of interest in municipal matters, it was better they were heard in Committee than that there should have been long discussions at the general meetings of the Commissioners. It is under these circumstances that I bring forward this motion, but if it is thought desirable that all the 25 wards should be represented in the General Committee, as will presently be proposed by my hon. friend, Dr. Gooroo Dass Banerjee, I shall not oppose that motion.

The Motion being put, the Council divided:—

Ayes 4.	*Noes* 8.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The Hon. Dr. Gooroo Dass Banerjee moved that, for the second paragraph of section 63, the following be substituted:—

"A General Committee shall be elected by ballot by the Commissioners in meeting, and shall consist of thirty-five Commissioners—one being chosen from the elected Commissioners of each of the twenty-five wards, and the remaining ten being chosen from the Commissioners appointed by Government and those elected by the Bengal Chamber of Commerce, the Calcutta Trades' Association, and the Commissioners for making Improvements in the Port of Calcutta."

He said:—I move this amendment because I consider it necessary that each of the wards or electoral units should be represented by one of its elected Commissioners in the General Committee, which is to be the Executive Committee of the Commissioners, and which will occupy the same position as the present Town Council does. My reasons are two—First, it is clear that every elected Commissioner will naturally feel inclined to serve that ward best which returned him. But if he has to represent more wards than one on the General

elected Commissioners, one shall be nominated by the Bengal Chamber of Commerce, one by the Calcutta Trades' Association, one by the Port Commissioners, and three by the 15 nominated Commissioners. At present the Town Council consists of 30 members, the average attendance being 14 or 15. This question was fully discussed by the Amalgamation Committee, who recommended a reduction of the number of members of the Town Council, but at the same time they recommended that special fees be paid to ensure attendance. When this Bill was first referred to the Select Committee, it was almost unanimously resolved that provision for the payment of fees should be eliminated. As that has been done, I do not see why the other part of the recommendation of that Committee should be retained. It would be extremely inconvenient to pay 30 members every week, and very properly it became necessary to reduce the number. But when there is no longer a question of payment, I do not see why the number should stand in the way at all. There will be 25 wards. It is a matter of great advantage, and I believe my hon. friend in charge of the Bill will admit it, to have all the wards represented in the Town Council. Week after week local grievances are placed before the Town Council for consideration by one of the members in whose ward the grievance has occurred, and the matter is taken up and decided one way or another. If, however, the number of elected Commissioners is reduced to 12, having 25 wards, it will necessitate the making of at least two wards into one for the purpose of appointing elected Commissioners to the Town Council. The result will be that many Commissioners who take great interest in the affairs of the town will be excluded by reason of the limit of number, and their services, which are valuable, will no longer be at the disposal of the Town Council. And one of the obvious difficulties which will arise will be that there will be debates at the general meetings of the Commissioners much more frequently than at present, because Ward Commissioners who are not members of the Town Council will take up matters which they would have discussed in the Town Council if they had been members of that body. Moreover, the Town Council itself would be more willing to consider complaints made by a Ward Commissioner than if the grievance was brought before them in respect of a ward by a Commissioner who was not returned by that ward. Therefore there will not be a reciprocal feeling between the rate-payers and the members of the General Committee, which is essentially necessary for the proper administration of the affairs of the town. For myself, I have been a member of the Town Council since it has been formed. No

will also have power to sanction the imposition of the fine contemplated under this section. If the words "if any" are added, a doubt will be thrown as to the real meaning of the section; and therefore it does not seem to me that the alteration is a mere verbal one, and I oppose it.

The HON. SIR HENRY HARRISON said in reply:—I cannot accept the validity of the argument used by my hon. friend. There are three ways in which the section will apply—first, to the case of an officer appointed by the Commissioners and the appointment approved by the Government; secondly, to the case of an officer appointed by the Chairman, whose appointment must be sanctioned by the Commissioners; and lastly, to the case of an appointment under Rs. 200 a month, in which case no sanction is required. The section as it stands may be read as implying that in every case there is *some* authority mentioned by the Act. There can be no mistake as to the cases in which there is authority. The words 'if any' will apply to cases in which there is no power of approval. It seems to me that the ambiguity lies in the old section under which it appears as if there is always some authority to approve or sanction. The section as proposed to be amended will make the meaning clear.

The Motion being put, the Council divided:—

Ayes 8.	*Noes* 4.
The Hon. H. Pratt.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. Babu Kali Nath Mitter.
The Hon. C. H. Moore.	The Hon. T. T. Allen.
The Hon. Moulvie Abdul Jubbar.	The Hon. H. J. Reynolds.
The Hon. Sir Alfred Croft.	
The Hon. Sir Henry Harrison.	
The Hon. C. P. L. Macaulay.	
His Honour the President.	

So the Motion was carried.

[On a suggestion made by His Honour the President, the following three amendments were considered together.]

The HON. BABU KALI NATH MITTER moved that, in line 2 of the second paragraph of section 63, for the words "eighteen" and "twelve" the words "thirty" and "twenty-two," respectively, be substituted; also that in line 13 of the same paragraph, for the word "three" the word "five" be substituted.

He said:—Section 63 provides for the appointment of a General Committee consisting of 18 members, of whom 12 shall be elected by the fifty

either party. And I would also point out that the power of reducing the salary is not the only safeguard which the Commissioners have to prevent the nomination of an inexperienced officer. The law provides that a majority of two-thirds of the Commissioners may insist on the removal of the Chairman, and that the Government must then remove him. I hope the Council will accept these reasons for the proposal to fix a minimum, and will not think that any slur is in any way meant.

The Hon. Babu Kali Nath Mitter said in reply:—I wish to make one observation in reference to what has fallen from His Honour the President. My experience is that it will be utterly impossible to obtain a majority of two-thirds for the removal of any Chairman: with every deference to the opinion expressed by His Honour, I think that provision affords no safeguard at all.

The motion was put to the vote and negatived.

The Hon. Sir Henry Harrison moved that, in line 30 of section 45, for the word "section" the word "clause" be substituted.

He said:—As it is intended to accept the amendment to be moved by the Hon. Babu Kali Nath Mitter, that when the Chairman nominates for the approval of the Commissioners, he shall, if the Commissioners wish it, nominate three persons, of whom the Commissioners might choose one; this verbal amendment becomes necessary to make the meaning clear.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison moved that, in lines 6 and 7 of section 46, for the words "subject to confirmation by the authority empowered to confirm such removal" the words "subject to the approval or sanction of the authority (if any) empowered by this Act to approve or sanction such removal" be substituted.

He said:—It is desirable to indicate that the same authority that may dismiss an officer may suspend or fine him. The word "confirmation" is not the word used: it is "approval" in the case of the Government, or "sanction" in the case of the Commissioners. The object of this amendment is to improve the wording of the section.

The Hon. Babu Kali Nath Mitter said:—I do not see that this alteration is merely a formal one. When the words "if any" are added, it must mean that there is no such authority in the Commissioners. As the section stands, it means that the Commissioners will have power to sanction the removal, and

exercised their discretion properly, and therefore it was necessary to modify the law. The officer who is to be the Chairman of the future Corporation will be appointed by the Government, and the only safeguard which the Commissioners have against an inexperienced officer being appointed to the post of Chairman of the Corporation is the fixing of his salary. No such thing has happened during the last twelve years, and I do not for a moment think it will happen, and that being so, I cannot understand why this slur should be cast on the Commissioners by making a modification in the existing law.

His Honour the President said:—As I am to a certain degree responsible for asking that this provision should be retained in the Bill, I will explain my reasons. The Council having now affirmed the principle that the Chairman of the Corporation should be appointed by the Government, it seems to me there must be some point at which the question between the two people who ride on the horse—as to who is to ride in front and who is to ride behind—must come to an issue. The hon. gentleman says he is not aware what has occurred during the last twelve years to necessitate this modification being made now. I quite admit that nothing has happened, but must we always wait till the steed is stolen before we shut the door? It is perfectly certain that if an officer is appointed who is distasteful to the Commissioners, and if no minimum salary is fixed, it will be in the competence of the Corporation to adopt a course which will render the power of appointment nominal and to prevent its being exercised. The Government may appoint A to be the Chairman; the Commissioners may fix Rs. 100 a month as the salary: then B may be appointed, and the Commissioners may again fix Rs. 100, and so on until the power of appointment is whittled away to absolutely nothing. I do not anticipate that this friction will occur, for the common sense of both parties will easily bring about a *modus vivendi*. But when you come to make legal provision as to the authority in whom the power of appointment shall rest, it is perfectly apparent that to leave a counteracting power with another body will be to make the power of appointment a nullity. As long as you give the power to the Government and must fix some adequate salary as a minimum to prevent the power of nomination being made absolutely null. I can assure the hon. gentleman that nothing like a slur is intended, and I cannot understand how any reasonable person can suppose that any slur is intended. It is like any ordinary condition which is drawn up when an agreement between two persons has to be made in which a clause safeguarding the agreement implies no slur on

soon as the duty of paying for the police is removed from the shoulders of the Municipality, that argument no longer applies, and there is no necessity for further discussing it. For my own part I am greatly obliged to the Hon. Member for the stool of repentance which he has provided for me, but I see no necessity for taking advantage of it. The principle involved is so important that if the Government should in future wish to revert to the present arrangement, it is not unreasonable that they should again bring it before the Legislature. I shall vote against the motion.

The Motion being put, the Council divided:—

Ayes 3.	*Noes* 9.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. H Pratt.
The Hon. Sir Henry Harrison.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. H. J. Reynolds.	The Hon. C. H. Moore.
	The Hon. Babu Kali Nath Mitter.
	The Hon Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	His Honour the President.

So the Motion was negatived.

The Hon. Babu Kali Nath Mitter moved that, in clause (*a*) of section 43, the words "or less than two thousand five hundred rupees a month" be omitted:

He said:—Under the present law no minimum is fixed at all; the maximum salary is fixed, but the minimum is left to the discretion of the Commissioners. It seems to me that nothing has happened to necessitate the Council making any modification in the law at the present moment. Since the introduction of the elective principle, no less than five persons have been appointed Chairman of the Corporation, and in each of those cases the Commissioners in meeting have had to make provision for their salary, and I do not think any instance can be shown where the discretion left to the Commissioners has not been properly exercised by them. In every instance Rs. 2,500 a month has been fixed as the salary of the Chairman, but house-rent was reserved until such time as the Commissioners were satisfied with the work of the Chairman, and then house-rent was allowed. That being so, I do not see any necessity for making this change in the law. The change implies a slur upon the Commissioners, as if they had no

[*The President.*]

HIS HONOUR THE PRESIDENT said:—I wish to say a few words before the debate closes. The Hon. Member has alluded to the previous history of the question to a certain extent, but I may add to that, that quite recently the Government of India selected a special officer and deputed him to Madras and Bombay to examine the working of the police in those Presidency towns, and he made suggestions, primarily financial, but also administrative, in regard to the working of the police in Calcutta. One of the leading and most important suggestions made by that officer was that the separation between the posts of Chairman of the Corporation and Commissioner of Police, which has been already recommended by my predecessor, should be carried out without any further delay. This recommendation with others was submitted by the Government of India for my opinion, and I have recently had the duty of sending in that opinion, which concurs with the opinion of Sir Rivers Thompson and with that of the officer who was deputed to make enquiries: that upon grounds of public responsibility, of the necessity of the man who does the work being the responsible officer to the public, and on the principle that there should not be any shadow or cloud between the Government which is the representative of the public, and the working officer at the head of the police, the separation is necessary and desirable, quite apart from any personal or other considerations whatever. But on looking a little beyond that, my views were strengthened by the historical aspect of the case of which some details have been given by the Hon. Mr. Macaulay. It was also strengthened by the acknowledgment which I had previously seen put on record by the Commissioner of Police himself, that it is impossible for an officer in the position of the Chairman to the Corporation to devote his time to any of the details of those minor points connected with police administration. My opinion was also strengthened by the considerations which the Hon. Mr. Macaulay has placed before the Council that in times of difficulty, and in case of a crisis when some action has to be taken within half an hour, or an hour, it will be exceedingly inconvenient that the man who has the power to give an order is not the person whom by official utine the Government was bound to address. They were bound to address see Chairman of the Corporation who does not give the order, and he has to address the man who will give the order. Then, when we come to the present aspect of the case in connexion with the Bill, there is the particular fact that so long as the Municipality paid for the police, it was quite right that their Chairman should have some control over it, and that his prestige and position should be increased by the extent of that control. But as my hon. friend has admitted, as

the case of the police, he found it impossible to devote much time to the supervision of that institution. The result was that the attention of the Government of India and of the Secretary of State was drawn to this plurality of appointments, and that the question was asked whether it was possible for any one man to do all this work. My hon. friend may, under the Act, be a member of the Port Commission and of the Bengal Council, and he is also President of I do not know how many charitable institutions besides. But in the case of the Boiler Commission it was found necessary to make new arrangements; and the Government then officially declared that the office of the Commissioner of Police should be severed from that of the Chairman of the Corporation. That being the case, what possible good can there be in giving the Government a power to do something against which it has formally and officially declared? On all these grounds I cannot advise the Council to accept the principle of the amendment, and its permissive form does not save it from condemnation. I therefore ask the Council to reject it.

The HON. SIR HENRY HARRISON said in reply:—I will not take up time in reply. My experience, if not much longer, is a little longer than that of my hon. friend who has opposed the amendment, and my experience is that what is offically condemned in one decade is most usually officially thought right in another. There is no country in which the official pendulum swings more certainly, and in which Government opinion and public opinion changes more rapidly, than in India. That is certainly my experience. My hon. friend said that the office of Commissioner of Police is an impossible burden for the Chairman of the Corporation to bear. [The HON. MR. MACAULAY—On the contrary, I said that as Commissioner of Police he did not do anything at all.] But the Commissioner of Police signed every letter to Government, and the Government would not receive a letter not signed by him; and he took considerable part in the correspondence. The Lieutenant-Governor, for instance, has no personal knowledge of the wants of the Medical Department or of the Public Works Department, and yet he exercises a control over both departments. In the same way the Chairman of the Corporation has very great advantage if he has control over the police, even if he has not the advantage of exercising control over its details. I think that not many years will pass when not the rights of the municipality but the public interests will necessitate a return to the present system. Before any long time elapses, I think it will be found desirable in the public interest that the two offices should be united.

people of Calcutta should pay for their police, but I think that such an illustration is inopportune at the very time when the police of Calcutta are no longer to be paid by the municipality. If the police rate were to be retained, there might be some sort of reason for retaining the present state of things; but precisely when the maintenance of the police is to be taken away from the Corporation, and the Government is to provide for its payment, it seems strange for my hon. friend to refer to the case of towns in England where the Government does not pay for the police.

So much for such arguments as my hon. friend has brought in support of his proposal. Looking at it from the other point of view, let us see what are the objections to it? The first objection to my mind is that it is a sham. My hon. friend does not pretend that he takes any real part in the police work, and it is clear, except for a time when Mr. Souttar made an energetic effort to do so, that it is impossible for any Chairman of the Corporation to take any substantial part in the work of the police of Calcutta. In the second place it involves an injustice. I maintain that it is unjust to the officer who is in charge of a great body like the Metropolitan Police, and who is practically responsible for its working, that he should not have the name and title of the office. In the third place, it might be, though it has not yet been, a source of very serious inconvenience. Calcutta is a great metropolis, where, as the Council are aware, a great many elements of disorder are brought together from all sides—elements which are always ready to menace the public peace and even to cause political danger. It is important that the Government should be more closely in touch with the police of the metropolis than with the police of any other part of the province. It is due entirely to the personal qualities of my hon. friend, to his tact and moderation, that no friction has arisen in his case. But that does not alter the fact that the arrangement involves a danger of very serious public inconvenience. Now as regards what I may call the apology of my hon. friend for the permissive form of his amendment, and his desire that the Council should not tie the hands of the Government but (burn its ships, but on the contrary should provide for it a *locus penitentiæ*, I can only say that the policy of the Government in this respect has already been distinctly and officially affirmed. The plurality of appointments, though, I admit, not of emoluments, which has been held of late years by the Commissioner of Police, has undoubtedly resulted in inconvenience. The Commissioner of Police was till lately also President of the Steam-boiler Commission, and, as in

bad condition in point of sanitation, and he was of opinion that this was due to some want of executive vigour, and that the hands of the Chairman of the Corporation would be strengthened if he were made also head of the police. This suggestion was adopted, although the arrangement was altered after a time. But with reference to what Sir Richard Temple said in 1876, I am bound to tell the Council, from my own personal experience, that at that time the police did not give any assistance to the Corporation, and that the Chairman of the Corporation did not interfere with the regulation of the police. I myself was Deputy Commissioner of Police in 1875 under Sir Stuart Hogg; and if ever there was a strong and active executive officer at the head of the Corporation, it was Sir Stuart Hogg. Yet he hardly interfered at all in police administration. Some years afterwards my hon. friend himself was obliged to admit that he himself did no part of the police work, as he was unable to find time for it. Now, if in 1875, a keen, able, I may even say masterful, man like Sir Stuart Hogg found it necessary to put aside what I may call the most attractive part of his duties, when the municipality was, if not in its infancy, at any rate in its youth, is it likely that the Chairman of the Corporation, which would now control the great amalgamated municipality to be created, when sanitation has made so much progress and so many works are in contemplation, would be able to devote time to the control of the police or derive any benefit from their assistance? As to the second and, it seems to me, only other argument which my hon. friend has used, that to dissociate the two offices would have the effect of injuring the prestige of the Chairman of the Corporation, I think that that is very much a matter of opinion; but I should certainly say that the head of the amalgamated municipality of Calcutta and the Suburbs will hold a position which will require no additional prestige from the conjunction of another office. But apart from these considerations, the great point is this. The police will now be paid by the Government, and no part of the cost will be borne by the Corporation. I wish to know what claims the Corporation have, either on the ground of assistance from the police, or on the ground of prestige to the head of the Corporation, to ask the Government to put the regulation of the police under an officer who, it does not pay? [The Hon. Sir H. Harrison—It appoints him.] But it does not pay him. My hon. friend has brought forward the case of the police in English boroughs, where the police are paid as well as controlled by the municipal authorities. Now this might be used as an argument why the

The simple question is, who shall exercise the power? So it cannot be said that you have not the same problem. You have an officer of the Executive in the place of the "Municipal Commissioner." It may be well, at a time when it is easy to find an efficient Commissioner of Police for Calcutta, to try the change, especially when the municipality will not pay for the police. But what harm can there be in leaving the door open to the Government to go back if they find the change does not work? It seems as if those who advocate the change admit that they are afraid it will turn out wrong. If it turns out well, and if my expectations prove wrong, what harm can there be in having the provision in the Bill? But should the change turn out wrong, and should injury be done to the town or to the police, or should it turn out not easy to find an efficient Commissioner of Police apart from the Chairman of the Corporation, and should Your Honour or your successor be of the same opinion as the Lieutenant-Governor of 1876, why should you not be allowed to retrace your steps and say, as Sir Richard Temple said, that long experience has shown the union of the two offices to work well?

The Hon. Mr. Macaulay said:—It is with great reluctance that I find myself compelled to oppose the amendment, and I can assure my hon. friend that my reluctance is very much enhanced by the consideration that I am opposing the wishes of an officer who has for so many years, and with so much distinction, held the amalgamated office of Chairman of the Corporation and Commissioner of Police. But in spite of all that my hon. friend has said, and in spite, to my mind, of a certain confusion of argument which he has introduced in reference to the discussions in Bombay, and to what Sir Richard Temple said in 1876, it appears to me that the issues before the Council, and the conclusions to be drawn from them, are perfectly clear. The Hon. Member has adduced certain arguments in favour of the principle of his amendment, and adds what I may call an apology for its form. As regards the principle, the first question is, can it in any way be said that the conjunction of the functions of the Commissionership of Police with the Chairmanship of the Municipality will be of assistance to the Corporation in the discharge of municipal work? The Council may put aside the question of the efficiency of the police. That has not been called into question, and I have no intention of calling it in question. But as regards the first point, what is our experience? In 1864 Sir John Strachey, who was Sanitary Commissioner at the time, drew attention to the fact that portions of Calcutta were in an extremely

the Corporation loses his influence with the Government, and becomes a personage of less importance in the town and occupies a more subordinate position, the prestige of the Corporation will be weakened, and the desire to serve on it will decline also. One of the greatest objections to this separation of offices is the inevitable decline in the importance of the Corporation which will be the result. Then, as regards the system in Bombay, the only way it has worked has been by the head of the municipality being another Commissioner of Police. He is called the "Municipal Commissioner," but is in reality a second Commissioner of Police. In Bombay the Executive is not in the hands of the Corporation as it is here. The Corporation has the financial control, but in all ordinary matters, when the funds have been granted, the Municipal Commissioner does as he likes. The Town Council is a separate body independent of the Corporation, but the Municipal Commissioner has all the powers of the Executive, and as a consequence it is most interesting to observe the totally different turn the discussions on the Bill have taken in Bombay as compared to what is happening here. The Bills in themselves are in many respects similar. Here the objections are almost entirely to powers being conferred upon the Corporation. You have the singular position of the municipality itself and those whom they regard as their special representatives not asking you to increase the powers of the Corporation, but not to increase them. On the other hand, you see no traces of friction between the Executive and the Municipality itself. The Commissioners are represented by the Commissioners in meeting. The Executive are represented by the phrase "Commissioners," which means that in all cases where there is no special rule, vote or resolution of the Commissioners to the contrary, the Chairman exercises the power. Not a single case throughout the whole of this Bill has there been in which we have fought as to whether we should have the phrase "Commissioners meeting" or "Commissioners"—so complete is the agreement. In Bombay, the contrary, the whole struggle regarding the Bill has been a struggle veen the "Municipal Commissioner" and the Corporation. The Bill was ed so as to give the whole power to the "Commissioner," and the dments proposed were nearly all to substitute one for the other. It has simply a struggle for authority. They raise no objection at all to the le class of sections which have been objected to here. All the sanitary wers conferred by the Bill are much more stringent than they have been oposed to be made here, but they have been passed without objection.

every day is something in the form of a criticism or report which now comes under one authority; but if the two bodies were separate, would terminate in correspondence and friction. Nor can it be said that experience everywhere else is against it. In England, in all boroughs of 30,000 inhabitants, and in many of less extent, the police are the servants of the Corporation; they are appointed and paid by them, and Government interference extends no further than the obtaining of a report periodically from an Inspector appointed for the purpose, and the Government do not sanction a contribution—for there the Government give a contribution—unless that officer reports well of the efficiency of the police. In all other respects it is a municipal force. In France the Mayor is the head of the Police, except in Paris. Paris is placed under a special disability in consequence of past proceedings there, and the police is under the Prefect of the Seine and the Corporation is shorn of all police authority. Neither is the experience of Madras and Bombay to the point. The question is, is it desirable that the Chairman of the Corporation should sink into a very inferior position? If it is, then possibly the experience of Madras may be to the point. In Madras there is a separation of the two offices. The present Chairman of the Corporation there occupies a position a little below the Inspector-General of Registration and a little above the Superintendent of Stamps and Stationery. If that is a desirable position for the Chairman of the Calcutta Corporation, then of course the separation of the two offices is desirable. I am aware that there are some members of the Corporation and of this Council who think that in some respects that is a desirable position, because the more the position and the prestige of the Chairman declines, the more the probability of the nomination falling into the hands of the Commissioners. I do not mean to say anything against that. We perfectly understand that the natural desire of many of the Commissioners is that that might be brought about; and it is but natural that seeing that this arrangement wi tend in that direction, they will be influenced to do what they can to effect t separation of the two offices. But it is not wise for them to do so. The p tion of the Corporation and of their Chairman is so closely united that t prestige and influence must fall together. I have always fully felt that interests of the Corporation and my own are identical, and that whate redounds to its credit redounds to mine. But the opposite is also true, and will infallibly be found that if the position of the Chairman is lowered, th position of the municipality will decline with it. When the Chairman o

ably with that of any city in British India; and I do hope there may be no disturbance of this system, which long experience has shown to work so well."

I think the experience of twelve years since that time has not done anything to alter the circumstances which led Sir Richard Temple to speak so strongly in favour of keeping the two offices united, and no one would say that the police had become inefficient; and those who say that the municipal arrangements are not efficient will not say that it is because of the union of the office of Commissioner of Police with that of Chairman of the Corporation. I think that the inefficiency of the municipality would have been greater and not less had it not been for the assistance which the head of the municipality has derived from being also the head of the police. Sir Richard Temple argued in favour of continuing the union of the two offices, mainly on the ground of the advantage to the police itself. But although I believe these arguments are correct, it is in the interests of the Corporation and the future Chairman of the Corporation that the proposed separation should not be made. The police and municipal establishments are necessarily brought into contact at all points of the city. These two bodies represent two fundamentally different animating principles. The animating principle of the police may be said to be the efficiency of the public service, whereas the animating principle of the Corporation is the convenience of the community and the individual. Nothing strikes me more forcibly than that in the police the first consideration is always efficiency, whereas in the municipality the convenience of the public is everything, and everything must yield to it. I may appeal to many of the amendments on the paper to-day to show how that spirit animates the Corporation. I am not blaming the municipality: it is good to a certain extent, but if pushed too far it is not good. We have here two bodies, whose animating principles may be said to be two opposite poles, and the result must be a rapid discharge of electricity unless you apply the connecting link which will take off the current. The Chairman of the Corporation is that connecting link. Hardly a week passes when he does not have complaints from one side or the other, commenting on the action of the one or drawing attention to something which is deficient in the other, and I derive the greatest advantage from such complaints. I get the benefit of the information, but before acting on it, where there is a sting in it, I take it out. The reports received by me are utilised, but they do not lead to friction between the two bodies. Of course there are cases in which subordinates of the two bodies have come into more marked collision, but they are comparatively rare. What happens

So far from the present arrangement causing divided responsibility, as the hon. member seems to think, it appears to me that it has the clearest possible advantage in uniting responsibility. It may be that the Deputy Commissioner of Police exercises a great deal of power over the police, and that the Chairman of the Justices does not interfere very much with them. Nevertheless, he does interfere with them in some respects, and in so far as he does interfere, he interferes beneficially. But if his interference was really so rare and exceptional as the hon. member supposes, then what possible objection can there be to uniting the functions of Commissioner of Police and Chairman of the Justices? Either the Chairman does interfere with the management of the police, or he does not; if he does not, then there is no practical harm in having the power; but if he does I maintain that he does so with advantage.

"The duties of the Chairman may be varied and onerous, as the hon. member seems to consider, but I believe they will not be rendered less onerous by his being shorn of his power as Commissioner of Police, and I believe that the possession of this power renders the execution of his duty as Chairman of the Justices much more smooth than it would otherwise be; and so far from his being able to do much more for the town if he were not also Commissioner of Police (as the hon. member supposes), my belief is that he would be able to do much less; and that, were the functions of the two offices to be divided, the state of the town would not be so good as we now see it. And as to the combined power being used to the detriment of the poor and the liberty of the people of the town (as stated by the hon. member), I cannot at all believe that to be the case. I do not suppose that the police are always blameless; they may be sometimes in the wrong. But, on the whole, I believe that the police powers of the town, as administered by the officer who combines the functions of Chairman of the Justices and Commissioner of Police, are exercised judiciously and considerately towards the people. There may be instances to the contrary, but whenever they occur a prompt remedy is applied. But my impression is that the Police Administration of the town has been on the whole just and considerate towards the people, and that it is more likely to be so when the two offices are combined in an officer who has so direct an interest in the welfare of the town as the Chairman of the Justices must necessarily have. I desire to put that in the clearest manner as regards the interests of the people, viz., that the Commissioner of Police is more likely to be merciful and considerate when he holds the office of Chairman of the Justices than if he held the office of Commissioner of Police only. I believe it is the combination of the two offices that greatly improves the practical adaptability of the police administration to the needs and feelings of the people.

"As regards the experience of Bombay, I need not remind the Council at this moment that I have a great respect for the example of that Presidency town, having so recently quoted its experience from the Chair. But there are cases in which this Council may be permitted to judge for itself, and contend that in this matter we have a better system than that which exists at Bombay. We have what is of the greatest benefit, viz., a strong, united, and efficient Executive, and I believe the condition of the city and its administration will compare favour-

tances on either side. The arguments on both sides are so nearly balanced that all I can say is that although I think I shall give my own vote for taking the line of railway for the boundary, having weighed both the advantages and disadvantages, I cannot press those who think otherwise to adopt my view. I do not agree in the argument that the poor would be driven out of Calcutta by increased taxation. Under the present system no doubt the poor feel the taxation very heavily, but one of the objects of the Bill is to bring about relief to those upon whom taxation now presses most hardly, and I am inclined to think that if this Bill becomes law, the position of the poor in Calcutta will be very much better than it is now.

Both the original and alternative amendments were put to the vote and respectively negatived.

The Hon. Sir Henry Harrison moved that, in clause (*b*) of section 42, the words "The Chairman may also hold the appointment of Commissioner of Police, and" be inserted before the words "The Chairman."

He said:—The object of this amendment is not to put any obstacle in the way of the change which has always been recognized by the Select Committee, that if this Bill becomes law, and if the police-rate is not levied, there should be separation of these two appointments. But the object of it is for a purpose of equal importance, but at the same time differing very much from it, namely, that in adopting this change there may be left a *locus penitentiæ*, or an opportunity of reviewing the measure at any time should it turn out not to work well. I know well that the body of opinion on the subject of the separation of the two offices is so overwhelmning that I appear almost to stand alone. At the same time it does require very strong arguments to induce the Council to tie the hands of the Government and to prevent it from going back to the present policy. It is difficult to say how strong the argument ought to be to justify us in burning our ships. The matter strikes me very forcibly, because this is not the first time the question of separating the two offices has been raised. The very same question was raised in 1876. The late Hon. Kristo Das Pal then moved the separation of the two offices, and he was replied to by the then Lieutenant-Governor himself in words so forcible that I ask the permission of the Council to read them. Sir Richard Temple said:—

"I listened with great interest and attention to all the arguments which have been advanced by him, but I deem it my duty to say that I cannot concur in any one of them"

within Calcutta. But in Select Committee I was persuaded, and I adhere to the conclusion I then came to, that on the whole it was more desirable to include it in order that the line of railway might be the boundary of Calcutta. There is great inconvenience in taking roads for boundary lines For instance, the Hon. Member took the Ballygunge Circular Road as one of the boundaries. The consequence would be that a man who possessed land on this side of the road came within Calcutta, while houses on the other side of the road would be neither in Calcutta nor in any other place. The Suburban and the South Suburban Municipalities are, I believe, divided by the sandy road which runs from the Jodhpore thannah to the Tollygunge bridge, and the line of railway follows that line within a few hundred yards, so that in taking the line of railway for our boundary we are accepting a boundary which divides and marks off one municipality from another—the South Suburban from the ordinary Suburban Municipality—we avoid the inconvenience of taking in houses on one side of a road and leaving out other houses on the other side, while the inconvenience of including within the town an area which is not of an urban character is very trifling. The assessment on such a tract of land would be almost nothing, and it is not likely that the sanitary and other provisions of the Act will come into operation in that portion of Calcutta for a very long time to come. By taking the line of railway as the boundary, the inconvenience to which I have referred would be avoided; and even should houses be erected up to the verge of the railway, still the land which forms the property of the Railway Company is a strip of land of considerable width, so that there would be a marked distinction between what would be Calcutta and what would not be Calcutta. It is not, however, at all likely that houses will be built up to the railway fence. It therefore appears to me that the inconvenience and the risk of confusion would be infinitely less by taking the line of railway as the boundary than by taking any road or series of roads. There is a mistake in the amendment in speaking of the Tiljullah Road; the road is the Bandel Road which leads from the rifle butts to the end the Ballygunge Circular Road. I therefore accept the boundary which led by the Select Committee after much consideration, and I think

"As r er to take the railway line as a boundary than to follow the
that I have ads which might lead to confusion.
its experien. SIR HENRY HARRISON said:—My own view of the subject is
judge for its that of the classical donkey with two bundles of hay at equal dis-
exists at Bo
Executive

observation to make, namely, that by leaving out rural areas in the vicinity of the proposed new town, we leave some breathing ground, so to speak, for the poor, who are unable to pay the increased rates which will be levied within the amalgamated suburban area, and may go outside the town and take up their abode in the area left out. And if in the end these areas grow populous, then the Lieutenant-Governor, under the power reserved to him, might include them within the town thereafter. The change might be effected gradually without any hardship to the people.

HIS HONOUR THE PRESIDENT said:—As I understand the proposal of the hon. and learned member, the difference in regard to the area in dispute is this: the line drawn by the Select Committee has for its eastern boundary the line of railway going from the South-Eastern Railway station to the Kidderpore Docks. The first proposal made by the Hon. Member was to take as the eastern boundary of the new municipality a line a good deal to the west of that; a line which, for practical purposes I may say, follows Tolly's Nullah as far as the Tollygunge bridge. There is no question that a great portion of the country included between these two boundaries is rural rather than urban; but, as he admits, that portion between the Russapugla Road and Tolly's Nullah, including all the lanes around Kalighat, are distinctly urban and very thickly populated. I walked there quite lately and satisfied myself that that bit of land is so distinctly urban in character that it ought to be included in he municipality. Personally, therefore, I am quite prepared to accept the second alternative of the hon. member's two proposals, and I think there is a good deal to be said for the argument which he uses—that as far as it is in the power of the new municipality to exclude from its operation thinly-populated non-urban tracts for the present, it is as well they should do so. The time will very likely come when these tracts will be as thickly populated as the portion we propose to include, but that time has not yet come, and sufficient unto the day is the evil thereof. On these grounds, speaking for myself only, I shall be prepared to accept the second alternative of the hon. member's two proposals. At the same time I shall be glad to hear what other hon. members who have studied the question in Select Committee, have to say on the subject.

The HON. MR. ALLEN said:—That the portion of country of the Council proposed to exclude under the second amendment is perfectly true: it is covered with paddy-fields, kitchen gardens and cultivated which have been and when this Bill was first introduced I was opposed to its any one of them

Nullah will be the western boundary. That is how my amendment stands. I now ask permission to move a further amendment in the alternative, if my first amendment is not accepted, that the definition of "Calcutta" be so altered that this other line of roads which I have marked in two of the maps now before the Council in red pencil be adopted as part of the boundary. That line consists of the Tiljullah Road and the Ballygunge Circular Road up to the point where the latter meets the Majra Road.

Then the boundary goes south along the eastern edge of the Majra Road up to the Beltala Road. The boundary then continues along the south edge of the Beltala Road; and then the boundary proceeds along the eastern edge of the Russapugla Road till it meets the Tollygunge Road. The verbal alterations which this will render necessary in the definition of 'Calcutta' I have in writing, and I ask permission to move the same in the alternative if my first amendment is not accepted. My reasons are almost the same as those I had the honour to submit in support of a former motion of mine for a more restricted boundary when considering the question of the number of wards in the town. I need not therefore repeat those reasons in detail now. I will only observe that, shortly stated, those reasons amount to this. That considering the limited funds of the present Calcutta Corporation, and remembering that the inclusion of the additional suburban area will lead to an increase of liabilities without bringing in anything like a proportional increase of funds, the larger the suburban area we can conveniently leave out, the better it will be for the improvement of the suburban area we propose to take in. The only question then is one of convenience. Can we conveniently leave what my amendment proposes to leave out? As regards the former of these two alternative amendments, I may observe that the major portion of the area proposed to be left out is scarcely of an urban character, though I am bound to admit that the area between Tolly's Nullah and Russapugla Road is of an urban character. But no such objection can apply to the second of my two alternative amendments, because the area that the boundary there proposed excludes is almost wholly of a rural character. I may also observe that neither of these two amendments is open to the objection on account of which my former motion for a restricted boundary was rejected. The objection was that it excluded the Kidderpore Docks, Kidderpore, and Alipore. All those portions will now come in under either of these two amendments, and therefore there need be no objection on that score. I have one other

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The HON. SIR HENRY HARRISON moved that the clauses of the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta, as further amended, be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The HON. DR. GOOROO DASS BANERJEE moved that, for the definition of "Calcutta" in section 3, the following be substituted:—

"'Calcutta,' subject to the inclusion or exclusion of any local area by the Local Government under section four hundred and fifty-eight, includes the area bounded as follows:—

By a line drawn along the southern and western bank of the Circular Canal from the River Hooghly to the south of Balliaghatta, till it meets the Pagladanga Road. Thence along the eastern edge of the Pagladanga Road to a point where it meets the Chingrahatta Road. Thence along the southern edge of the Chingrahatta Road to a point where it meets the South Tangor Road. Thence along the eastern edge of the South Tangor Road to a point where it meets the South Topsea Road. Thence along the eastern edge of the Topsea Road to its junction with the Tiljullah Road. Thence westward along the southern edge of the Tiljullah Road to its junction with the Ballygunge Circular Road. Thence along the southern and western edge of the last-mentioned road to its junction with the Puddopookur Road. Thence westward along the southern edge of the Puddopookur Road, and its continuations, the Pakoortollah Road, and the Chaoollputty Road to Tolly's Nullah. Thence southward along the eastern bank of Tolly's Nullah to the southern edge of the Tollygunge Bridge. Thence westward along the southern edge of the road leading therefrom, and its continuations, the Sharpore Road, the Goragachee Road, and the Tarak[illegible]ah Road to Nimuck Mehal Ghât, where it joins the Hooghly. And thence along the left bank of the Hooghly to its junction with the Circular Canal. But from this area are shall be excluded—

(1).—Fort William.
(2).—The Esplanade.
(3).—That part of Hastings, north of the south edge of Clyde Row, which has hitherto been excluded from the Municipality of the Town of Calcutta."

He said:—I beg to point out how these boundaries will stand. If the Council adopt this amendment, the line of roads commencing with the Tiljullah Road, going along the Ballygunge Circular Road, and coming to a point where the Chaoollputty Road meets Tolly's Nullah, will give the northern boundary of the suburban area excluded on the south; and a line southward along Tolly's

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *and* 25 *Vic., Cap.* 67.

The Council met at the Council Chamber on Saturday, the 7th April, 1888, at 11 A.M.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. Sir Henry Harrison, Kt.
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.
The Hon. H. Pratt.

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The Hon. Mr. Macaulay, in introducing the Bill to amend the Bengal Municipal Act, III of 1884, and moving that the Bill be read in Council, said:—The Bill is one of extremely attenuated dimensions, and I do not think I need trouble the Council with any further observations upon it.

The motion was put to the vote and carried.

The Bill was read accordingly.

The Hon. Mr. Macaulay also moved that the Bill be referred to a Select Committee, consisting of the Hon. Mr. Allen, the Hon. Dr. Gooroo Dass Banerjee, and the Mover, with instructions to report thereon.

The motion was put to the vote and carried.

or buildings in the occupation of the State for State purposes. The Lieutenant-Governor, however, represented that as the law stood any change of limits would require the sanction of the Commissioners of the Municipality, we have practically to guard against two dangers; undue assessment and undue interference. As regards undue assessment it was considered that the interests of the State were sufficiently protected by the Imperial Municipal Taxation Act, XI of 1881; and as regards protecting State property from undue interference, it was believed that it might be effected by restricting the power of the Government with regard to altering the limits of Municipalities to lands and buildings belonging to the State of a particular character. In this view the Government of India concurred. The Council are aware that the necessity for legislation arose out of the proceedings of the North Barrackpore Municipality. The Commissioners of that Municipality claimed the right to enter upon and to inspect the premises of the Gunpowder Manufactory, and the Superintendent of that Manufactory represented—and it was a reasonable representation—that that was a power which could not ordinarily be exercised without risk to the very delicate and dangerous operations under his control. The Commissioners, however, had the power, and so long as the Act remained in force, and the manufactory was within their Municipality, they were entitled to exercise that power. The only way out of the difficulty was to alter the limits of the Municipality so as to exclude this magazine from the municipal limits. The Commissioners declined to give their assent to this proposal, and we now ask the Council to amend the Act so as to give the Government power to do so, without the consent of the Commissioners of the Municipality. It has been considered that cases of this kind will be sufficiently met if section 9 of the Act be amended so as to give the Government power to exclude from municipal limits any land or buildings in the occupation of the State for military or for naval purposes. With that object, I ask leave to introduce a Bill.

The motion was put to the vote and carried.

The Council was adjourned to Saturday, the 7th April, 1888.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 17th April, 1888.

Reg. No. 2878G—300—21-5-88.

happen. I can, however, conceive it to be quite possible for the nomination to be made without canvassing. If my hon. friend desires to restrict the appointment to the members of the Civil Service, he is right in what he said; but if the appointment is to be thrown open to other persons, then the nomination should be left to the Commissioners. It may be that the Commissioners would nominate a gentleman who is not a member of the Civil Service, and such person may turn out a success; but without allowing the thing to work, it is difficult to say what would be the result. The ultimate power would rest with the Local Government to accept the nomination of the Commissioners; and, with this safeguard, I do not see why this privilege should not be granted to the Corporation. I think the Commissioners have shown that they are persons who ought to be trusted.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON moved that, in line 7 of section 41, for the words "Collector of Taxes" the word "Collector" be substituted.

He said:—The term "Collector of Taxes" was a misnomer. The Act distinguishes between rates and taxes. Taxes are imposed on trades and professions, and rates are levied from the community at large. As a matter of fact, the Collector is the Collector of Rates, and not the Collector of Taxes; the latter being collected by the officers of the License Department.

The motion was put to the vote and carried.

The consideration of the further clauses of the Bill was postponed to the next sitting of the Council.

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The HON. MR. MACAULAY moved for leave to introduce a Bill to amend the Bengal Municipal Act, III of 1884.

He said:—This is a measure to which Your Honour made reference in your opening Address. But I may inform the Council that since that address was delivered, some correspondence had taken place between the Government of India and the Local Government, with the result that the scope of the Bill will be much more limited than was originally proposed. It was originally suggested that the Government of Bengal should have the same power as other Local Governments in India under their respective Municipal Acts, without referring to the Commissioners of a Municipality, to exclude from its limits any lands

Municipality. Looking at it in that light, is it desirable that the Chairman should be nominated by the Commissioners? The problem is an extremely complex one, and might well lead one to suppose that nothing short of administration by an officer of Government would satisfy all parties. It is of the utmost importance that any tendency to special national and race sympathies should be kept out of the Municipality. For this reason it seems most unwise that the appointment of Chairman should be thrown into the cauldron of Municipal contests as a prize to be carried off by the strongest party. The Chairman of the Municipality should be of no party, so that he may deal with all parties on an equality. If you make him the nominee of one particular party, would you not bring about the very thing you wish as much as possible to prevent? He would simply be the nominee of the majority, and the more completely he would be in harmony with the views and feelings of the majority, the more effectually would he work in the very way he should not work: any Chairman who would be competely in harmony with one party would be as completely antagonistic to the others. On the other hand, the Local Government, which is extremely interested in the welfare of all parties, and which has the best means of judging between them, should be the authority to select a fit person for the appointment. The Hon. Member has himself borne testimony to the success of the present mode of appointing the Chairman during the last ten years. Could they do better then let well alone?

The Hon. Babu Kali Nath Mitter said in reply:—My own experience is that the Chairman has always belonged to one of the parties in the Corporation, and the members of the opposition to the other; so that there have been two parties, the Chairman and his followers, and the members of the opposition. It is a mistake to say that the Chairman is wholly independent of parties, because it cannot be so. He has to work by majorities. I think the very reasons he has assigned strongly support my contention. Many municipalities have been entrusted with this privilege, and surely the metropolis of the Empire can be trusted with it. We have not got any experience of nominations by the Commissioners; but in one or two instances in which the Government accepted the views of the Commissioners, the appointment gave complete satisfaction. In every instance, as the hon. member in charge of the Bill said, there would be competition, and the Chairman would side with the party which elected him; but it is very difficult to say whether in practice it would so

be authorised to send up to Government three names, out of which the selection should be made for the appointment of Chairman of the Corporation. If that proposal is approved, I shall have no objection to modify my amendment. My object is simply that the views of the Commissioners should be considered, and that the Government should make the appointment after the Commissioners have made their nominations.

The HON. MR. MACAULAY said:—I regret that my hon. friend in charge of the Bill leaves it to me to oppose the amendment I do so on two grounds. First, I think that my hon. friend has proceeded on a wrong line in suggesting that the appointment of the Chairman is in any way of the same character as other officers of the Corporation. He has, I think, overlooked the provisions of section 61 of the Bill, under which the Chairman may exercise all the powers of the Commissioners. That removes the appointment from the same category as the subordinate officers of the Corporation. Beyond that we have to regard Calcutta in a different light from other municipalities in Bengal. No one would be more ready than myself to see the principle of Local Self-Government extended as far as possible, and I fully admit that the nomination to the office of Chairman is a proper development of that principle, and that this power should be given to the Commissioners of Municipalities where it can be given safely. But I draw a serious distinction between Calcutta and Municipalities in the interior. It must be remembered that in Mofussil Municipalities the Commissioners are concerned in managing their own affairs. In Calcutta the Commissioners are, to a great extent, managing the affairs of people in all parts of the world who are concerned in the welfare of the town as it affects commerce, though they have never been and may never be in Calcutta. We must look upon Calcutta as the capital of a great Empire, and, as such, we should secure as far as we possibly can its good Municipal Government.

The HON. SIR HENRY HARRISON said:—I was in no way unwilling to oppose this amendment myself; but as I was convinced that my hon. friend, Mr. Macaulay, would do so much more forcibly and eloquently than I could, I asked him to reply to the observations of the hon. mover of the amendment. Nevertheless I will add a few words, and in doing so I would draw attention to the difference between Calcutta and the homogeneous municipalities in the mofussil. In Calcutta the main difficulty lies in this—that there are people of different classes, different races, different nationalities and different religions, all of whose affairs have to be managed impartially and equitably by the

Provided that if there is a difference of opinion among the members of the said Commission, the opinion and report of the majority of the said members shall be held to be the opinion and report of the Commission."

The HON. BABU KALI NATH MITTER moved that, for the first paragraph of section 39, the following be substituted:—

"The Commissioners at a special meeting to be held for that purpose may, from time to time, nominate a proper and fit person residing within the limits of Calcutta to be appointed by the Local Government as the Chairman of the Commissioners."

He said:—Under the present Municipal Law of Bengal many municipalities have been entrusted with the duty of appointing their own Chairman, and of late this concession has been extended even to some of the minor municipalities. I fail to see why the Calcutta Municipality should not have some voice in the appointment of their Chairman. The policy of the law, as laid down in this Bill and in the existing Act, seems to be as if it was intended that the Commissioners should have some voice in the matter; for we find that in the appointment of officers on a salary not exceeding Rs. 200 per mensem, the Chairman of the Corporation has uncontrolled power. Then, as regards appointments between Rs. 200 and Rs. 500, he is to make nominations to the Commissioners, and the Commissioners are to appoint one of the persons so nominated by the Chairman; and in regard to appointments of Rs. 500 a month and upwards, the Commissioners have the absolute power of appointment subject to the approval of the Local Government. But there is one appointment as to which the Commissioners do not seem to have any power whatsoever. I fail to understand why that should be so. If they are competent to appoint all the superior officers of the Municipality, subject to the sanction of the Local Government, surely they ought to be allowed to have the privilege of nominating a person to be their Chairman. It seems to me that the Commissioners are in an excellent position to make such a nomination. So far as the appointments hitherto made by the Government of Chairmen of the Corporation are concerned, I believe they have given satisfaction generally. There was only one case in which satisfaction was not given, but with that exception the appointments made by the Government generally gave satisfaction. But I claim on principle that the Commissioners should have some voice in the appointment of their Chairman. If it be considered that the amendment proposed by me goes too far, I shall be quite content to make a modified proposal. In the same way as the Chairman is required to submit three names to the Commissioners in respect of appointments between Rs. 200 and Rs. 500 a month, the Commissioners might

[*Babu Kali Nath Mitter.*]

The HON. BABU KALI NATH MITTER's motion that, for section 38, the following be substituted, being put, the Council divided:—

"Upon a complaint made to the Local Government that the Commissioners have made general default in the performance of any of the duties enumerated in clauses (3) and (4), and in (*a*) and (*b*) of clause (5), the Local Government, may, by notification in the *Calcutta Gazette*, appoint a Commission, consisting of three persons, of whom one shall be the Sanitary Commissioner for Bengal or any Medical Officer officiating for him, the second shall be appointed by the Commissioners in meeting within a fortnight from the date of the said notification, or in their default by the Local Government, and the third by the Local Government. And the Local Government shall order the members of the said Commission to report within a certain time to be fixed by the Local Government whether they are of opinion that any such general default has been made, and in that case to state in their report what further provision should be made towards the performance of the duties in respect of which such default has been made, and to submit an estimate of the said further provision."

Ayes 4.	*Noes* 8.
The Hon. H. Pratt.	The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. Moulvie Abdul Jubbar.
The Hon. Dr. Mahendra Lal Sircar.	The Hon Sir Alfred Croft.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER, by leave, withdrew the motion

after section 38, the following new section be inserted:—

"38A. On receipt of the said report, the Local Government shall forward the s for the consideration of the Commissioners, and if the Commissioners shall decline to c out the provisions recommended therein, the Local Government may order that t provisions, or any of them, or any portion of them, respectively, be carried out; an thereupon it shall be the duty of the Commissioners to comply with such orders, and provide the funds mentioned in the said estimate or such portion thereof as the Local Government may fix; and the Chairman shall forthwith carry out such order and shall defray the cost of carrying out the same from the Municipal Fund, notwithstanding any power conferred on the Commissioners by section sixty-one or anything to the contrary contained in any other provision of this Act:

it has before it the report of a Commission consisting, amongst others, of one member at least who has been nominated by the Commissioners.

The HON. BABU KALI NATH MITTER'S motion that (*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*) and (*k*) of clause (5) and clause (6) of section 37, be omitted, was put to the vote and negatived.

The HON. DR. GOOROO DASS BANERJEE'S motion that, in line 5 of section 38, after the word "duties" the words "relating to public health" be inserted, being put, the Council divided :—

Ayes 4.	*Noes* 7.
The Hon. H. Pratt.	The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. Moulvie Abdul Jubbar.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. Sir Alfred Croft.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.

So the Motion was negatived.

The HON. DR. GOOROO DASS BANERJEE'S motion that, in line 7 of section 38, after the word "enquiry" the words "by a Commission consisting of three Commissioners, two of whom shall be appointed by the Local Government, and the third by the Commissioners in meeting," be inserted, being put, the Council divided :—

Ayes 3.	*Noes* 9.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honour the President.

So the Motion was negatived.

of this section of the existing Bill, why was not the amending section proposed by him when he introduced the Bill? It was not proposed by him, but it was brought forward by the Hon. Mr. Macaulay at the very last moment. It is a matter of surprise that the hon. member in charge of the Bill, who is so much struck with the erroneous principle of the existing law, never brought forward any amendment of it.

The HON. DR. GOOROO DASS BANERJEE said in reply:—The Hon. Member in charge of the Bill has been pleased to point out the necessity for retaining the section in the general terms in which it stands, on the ground that although general default in the performance of their duties by the Corporation may not be a very probable thing, yet it is possible, and that when such a possibility happens, there will be good reason for the interference of Government. I have not had the honour of being a member of the Corporation, and it is therefore not for me to say what default by the Corporation is possible and what is not possible; but we have the word of the Hon. Member himself that it is not very probable that such default will be made. If that is so, where is the necessity to provide for a mere possible contingency which may after all never happen? I should have thought that the work of providing for probable contingencies is work enough for us. Then as to the question of enquiry, it has been said that it involves an erroneous principle, and the hon. member in charge of the Bill entered into a discussion on the general question as to whether the functions of the Municipality are functions delegated by the Government or are independent functions. I do not think it necessary to enter into a discussion as to whether the Municipality is an independent body and entitled to have any question in dispute between it and the Government decided by an independent tribunal. I concede to the fullest extent the correctness of the principle laid down by the hon. member in charge of the Bill, but I must say the Hon. Member has been labouring under a misapprehension. When I addressed the Council, I did not say that any of the powers of the Local Government to judge are to be curtailed in any way. I think I said, with some degree of distinctness, that I wanted the Corporation to be represented by some one on their behalf as an assessor, in order that the controlling authority, the Local Government, may be in full possession of the facts and details into which it would be necessary to enter to enable the Government to come to a right decision. I do not think that would infringe any principle of law or justice. My amendment concedes that the Local Government shall have the right to judge; all I say is that it will be assisted very materially if

any principle involved in it. My hon. friend says that if such default is committed, who is the person who should take action but the Local Government? My answer is that it will be impossible for the Local Government, constituted as it is, to have any opinion on the subject, unless it causes a proper enquiry to be made by an independent person or tribunal. When a memorial signed by 500 or 1,000 persons is submitted to the Government, it is *primâ facie* evidence that the complaint is a just one, and no reasonable man can object to the exercise of this power in such a case; but if the complaint is to be enquired into in the mode indicated in the law, and if, as the result of that enquiry, the Local Government is to exercise the power, then I do not see where the principle differs. It is not to be an enquiry made by a Secretary to Government or some other Government official; but by independent persons, assisted by a nominee of the Commissioners, so that the nominee of the Commissioners will be able to place before his colleagues the fullest information on which it would be possible for the Commissioners to come to a finding. Therefore, I humbly submit, that there is no question of principle involved in the section. My hon. friend has asked me to show whether there is in England or elsewhere, or in this country, any such provision of law as that contained in Act IV of 1876 or in my amendment. I say there is not, and it is because Calcutta is differently circumstanced from other towns that it was thought fit to make this provision. May I not retort and ask whether the Hon. Member can point to any case where an appeal to the Government of India from the decision of the Local Government has been allowed? If he cannot, then does not that show conclusively that the circumstances of the case are different, and that therefore a different procedure is applicable. I would also urge that as this appeal is to be allowed, the order must be made after the Commissioners have been heard. Where is the objection to provide for such hearing? If that is the intention of the section, why not plainly say so? Where is the objection to state plainly what the law intends, and to say so plainly if that is the intention? We know as a fact that on the occasion to which I have referred, the Commissioners were not heard before they were condemned; and therefore I am extremely anxious that it should be stated plainly, so that there should not be the slightest doubt on the subject. Under these circumstances, I hope that, notwithstanding the opposition of my hon. friend, Your Honor, as President of the Council, will see your way to support these amendments. One thing more I have to say. If my hon. friend, the member in charge of the Bill, is so much struck with the erroneous principle

always make when he has a bad case to deal with, but he has not attempted to meet the objections which I raised. All throughout he has made general statements. As to the quotation from the speech of the late Hon. Kristo Das Pal, I submit that everything he then said applies in every possible way to the present time. Suppose this section is not altered, but is passed as it has been framed, will the relations between the Chairman and the Corporation be of the same character as they have been in the past? I think if the law was different, the Chairman would on many occasions have gone up to the Government; the Act has worked well, because the law insisted upon an enquiry. We have no experience of what would have happened if the law had been different; our past experience, therefore, does not help us. The late Hon. Kristo Das Pal rested on that ground alone. I did not put it on that ground. I never referred to the possibility of the Chairman being the person who would be the complainant: that is a matter wholly immaterial to my argument. We are asked why the Government should not interfere if the Commissioners omitted to register births and deaths or to name streets and number premises. If that happened, the interference of Government should be very different. It should not be supersession by the appointment of a person to register births and deaths or to name streets or number premises, but the interference would take the form of establishing a totally different system of Municipal Government. If it is possible to conceive that the Commissioners should fail to provide for the performance of these obvious duties, then the course would be not to supersede the Commissioners in the manner indicated in the Bill, but to supersede them completely, and to have another system for the administration of the affairs of the town. To my mind the two things are as totally distinct as it is possible to conceive, but I do not think it is possible any such thing can happen. I am told that if it is not possible to happen, what objection is there? I object to this provision on principle; that it is a provision which should not be left without reasonable safeguards. Then I am referred to the words "general default." The expression "general default" has not been defined in the Bill, and I do not know what it means; whether the omission to name two or three streets or a hundred streets would be considered "general default." It would be very difficult to say how a court of law would interpret this "expression," or how the Local Government would interpret it. Then my hon. friend has thought fit to say that on the last occasion when this question was considered it was decided on an erroneous principle. I have listened very attentively to find where the principle lies, but I have failed to find

sarily exercise that power. But at the same time Babu Kristo Das Pal submitted, with due deference to the Government that it would be chiefly inspired or guided by the Chairman in a matter like this. Government could not be expected to be master of those details which the Chairman, it was thought, ought to be; and in such a matter the Government would necessarily be guided by the Chairman. With every deference to his hon. friend who now so ably filled the office of Chairman to the Justices, he submitted that the tendency of the Executive had always been to expend money, and that tendency it had been the business of the working Justices to control.

"That, he submitted, was a healthy policy. He thought such a state of things was good for the town. Good, because the Chairman, as the executive officer, might be anxious to undertake works of improvement which might be desirable to carry out, and good, because there was an independent body of working Justices to temper the excessive zeal of the Chairman, and their conduct in this way helped to preserve the much-needed equilibrium. But once that power was destroyed or lost, it would come to this, that the Chairman, however reasonably he might be overruled by the Commissioners, would have only to appeal to the Government, and, as the representative of the Government, he would in nine cases out of ten be likely to be supported by it. Such being the tendency of this section, he was sorry he could not support it, and he was compelled to say that, if it were carried, it would defeat the very object for which His Honour so laudably sought."

The whole gist of his objection was that the Chairman would be constantly rushing up to the Government to appeal against the Commissioners. Has not experience shown that that is quite contrary to the spirit in which the Act has worked? Does not the Chairman recognize that his interest and the interest of the Corporation are the same; that his success is their success, and that their success is his success? And so long as that is the spirit which guides the Corporation, I do not think there is any reasonable fear of the Chairman going up to Government; of any constant appeal to Government from within the Corporation. That was the only way in which the late Hon. Kristo Das Pal thought the principle of the section originally proposed was unwise; but as far as the outside public was concerned, he admitted that if, say, 500 rate-payers petitioned the Government, the section should be brought into operation.

For all these reasons, I think it will be fittest for the Council not to accept the amendment, and to be satisfied that the Corporation will always have a right of appeal to the Government of India.

The Hon. Babu Kali Nath Mitter said in reply:—I have listened very attentively to what has fallen from the hon. member in charge of the Bill, but I fail to see how he has attempted to meet the objections I have raised to the section. He has made general statements which an advocate will

legitimate and proper position which the Government must exercise. On the other hand, it seems desirable that that principle once safeguarded, the Government should make every concession it can, consistently with the working of the principle, to the position of the Corporation. On that ground we are much indebted to Your Honour that the Corporation should, under such circumstances, have been given a right of appeal. That right can no doubt be granted without any serious incumbrance to the exercise of the authority. It is in itself a very moderate safeguard. The Hon. Member asked why it should not be incumbent on the Government in the first instance to call for an explanation from the Commissioners. But by a concession of the kind offered by Your Honour, you practically concede what is asked. I know that there is a strong feeling in many quarters that in doing that the Government has made an unnecessary concession, and it is perfectly possible that if that view had been pressed on the Council, a majority might have been found to agree with it; and that makes us all the more indebted to you for making the concession, and it is the utmost concession which Your Honour can make consistently with principle, Your Honour being the responsible authority.

One more argument before I sit down. It is but fair to point out that a very great change has taken place, or, I should rather say, the experience of past years has made a great change in the aspect which this question now presents. If I read to the Council from a speech delivered by the late Hon. Kristo Das Pal when he objected to a similar provision which was first proposed, it will be apparent that what he made the primary objection to the principle no longer exists. He said—

"This was the last straw which broke the camel's back. If this section passed, he would rather set his face against an elected system than vote for it in this form. The section gave power to the Local Government to modify or cancel rates which might be fixed by the Municipal Commissioners after full and mature deliberation. So long as this section should remain a part of the statute book, he did not know whether any independent gentlemen, with any feeling of self-respect, would care or would be willing to work for an object which would be likely to be set at nought at the pleasure of the Government. The other day the Justices, after days of labour and discussion came to the decision, that a 7½ per cent. house-rate would be sufficient for the year. The Chairman was not of course satisfied with that decision, and, as under the present law, the Government had no power to alter the rates, the Chairman was bound to accept the decision of the Justices so long as they saw no reason to alter it. But if the Government had power under the existing law in the way proposed in this section, then the Chairman might have at once gone up to Government, and the rate passed might have been cancelled. It might be urged that Government would not unneces-

bound to say that in my opinion the Council will do wrong, unless it lays down most distinctly that the authority in all such matters rests with the Government. There is a great deal of difference between the Government interfering in matters concerning the duties of a Municipality and in matters affecting private rights, in which case the decision of a perfectly independent tribunal is necessary. There is a wide difference between such rights and rights and duties which are really part of the work of Government. The Municipality is a body vested with some of the authority of the Government of the country, and it should be properly regarded as a body which is subordinate to the Government of the country, and so it is regarded in every country in the world. In Paris, in Berlin, in London, the Government of the country is vested with the supreme authority and the supreme responsibility of disposing of public duties, but as it cannot attend to everything itself, it has its subordinate officers, and, where it is possible, local bodies are constituted for local purposes. But who in the long run is responsible to the individuals of each community against gross abuse of authority, but the Government of the country. Therefore, I submit, that as a matter of Government we must have a hierarchy of institutions, and subordinate authorities must be placed under superior authority. The Government ought to make up its mind with the utmost care, prudence, discretion, and forbearance; but when the Government has made up its mind that something is wrong, it is erroneous in principle to say that it should not have power then and there to act, but that authority should be given to some other tribunal to judge between it and the subordinate authority. That is the principle on which this section is based. Therefore on the whole I submit that the proper principle is that the responsible authority must be given the power after it has given full consideration to the matter and has made up its mind. And that being so, may we not fairly appeal to the experience of all other parts of the world? Can the Hon. Member point to any provision such as exists in the Act of 1876? In France, there can be no question that Municipalities are absolutely and entirely under the control of the Government: the President of the Republic has complete power over municipalities. In Paris, it is entirely under the Prefect of the Seine and the Prefect of Police. And a similar rule prevails everywhere. In Bombay, a precisely parallel case, where a portion of the members of the Corporation are appointed by the Government, we have the same principle; and in Madras it is the same. In India, that appears to me to be the

essentially in such matters that there will be a probability of diffe opinion. But as a question of principle, why should the other claus section be excluded? The probability is that there will be no of default in such matters. But suppose the Commissioners were to default in respect of such matters? Suppose the Commissioners discont the maintenance of a system of registration of births and deaths? T are statistics of births and deaths extending over a series of years of extr value to which constant reference is needed. Would it not then be necess that the Government should have power to say to the Commissioners, you not discontinue those registers? Take another case. Take the naming of s and the numbering of houses. Conceive the total confusion which would from total neglect of this duty. Consider the total prostration of the Department and of all inter-communication in Calcutta. Is there one duty of the Commissioners regarding the performance of which it would be incumbent on the Government to interfere than that supposing it neglecte... As a question of principle I cannot see why we should take away the control of the Government over duties of this kind which, supposing they are not performed, will lead to disastrous results, simply because we think there will be no necessity for such control. The chances are a hundred to one that the Commissioners would not commit default in such matters; if so, no harm would be done, and the section would remain a dead letter. But suppose the Commissioners did commit general default, then there is no single matter amongst the duties of the Corporation control over which would more meet with the approval of the entire population, than some of the matters which I have instanced. I think the essence of the objection is that instead of the decision in such matters being vested in the Government it should be vested in a tribunal consisting of three persons, two of whom should be appointed by the Local Government and one by the Commissioners in meeting. That is a legacy from the Act of 1876, and the Hon. Babu Kali Nath Mitter correctly described what happened then. The section was adopted as a compromise by way of concession to representations made by various public bodies, because they considered that the general power of control proposed to be given would prove fatal to the independence of the Commissioners. But I would ask the Council to consider whether that is not a fundamentally erroneous principle. It appears to me to be an erroneous principle incautiously and easily yielded by Sir Richard Temple to satisfy the objections raised by several public bodies. And now that the law is being amended, I am

[*Dr. Gooroo Dass Banerjee; Sir Henry Harrison.*]

Do... dow...aracter. With regard to a public body so circumstanced the duty Gov... of their acts and omissions must necessarily be of a most difficult, inte...e nature, and therefore I submit it is due as well to the Corporation ...r controlling authority itself to lay down rules and to make careful ...on against any unfair or injudicious interference being made in any ...le case. There are many cases in which the question involved will ...all be a mere matter of difference of opinion; the Commissioners after ...ising their judgment most carefully and anxiously may think one class of ... more important than another, whilst the Local Government may be ...d to take a different view. And the possibility of the Commissioners ...able to discharge both duties together will depend on the state of their ... An enquiry into these points can hardly be fairly conducted unless ...ommissioners are represented by some one in the tribunal which is to ...e. I therefore submit that the very least which ought to be done in this ...ection will be to have an enquiry by a Commission constituted as my amend...ent indicates. I earnestly hope that if the Council has any difficulty in ...ccepting the larger proposition contained in the amendment of my hon. friend ...abu Kali Nath Mitter, it, at any rate, will find no difficulty in accepting the ...naller measure proposed in my amendment.

The Hon. Sir Henry Harrison said—Although I am quite prepared to ...dmit that the question is not without difficulties, I can hardly recommend ...he Council to accept the amendments moved by the Hon. Member on my ...eft (Babu Kali Nath Mitter). As regards the fact that section 37 in ...s earlier form did not contain the clauses to which the Hon. Member has ...referred, I may mention that in the first instance the Government of India ...drew attention to the non-inclusion in the section of such provisions. In a ...letter, received from the Government of India last year, commenting on ...the draft Bill, they asked us to look into the corresponding sections in ...the Acts relating to Municipalities in other parts of India, and it is not ...possible to deny that the maintaining of a system of registration of births and ...deaths for instance, or the naming of streets and the numbering of houses ...are duties of the Municipality. Then, if it is the duty of the Municipality ...to do these things, ought they to be omitted from the section of the Bill, over ...the operation of which a power of control is given to the Government? I ...admit that for all practical purposes it will perhaps be sufficient if the power ...of control is confined to matters affecting the public health, because it is

[*Dr. Gooroo Dass Banerjee.*]

I submit that this control, in the case of an important public body like the Calcutta Municipal Corporation, should be limited to extreme cases—to the cases of serious neglect of duty by the Corporation in relation to matters of public health. It is then only that the grave importance of the subject would justify the action of the Government. In other matters of minor importance, the Municipal Corporation could be safely trusted. But if the provisions of the law remain as they are in the Bill, the result will be that the Commissioners would be liable to be superseded on account of default in the discharge of every minor duty, such as the naming of streets, the watering of streets. This would no doubt very prejudicially affect the independence of the Corporation, a result which is scarcely desirable. Then it should be borne in mind that the new Corporation, with their limited funds, and with the comprehensive and detailed scheme of duties laid down in section 37 of the Bill, would be constantly exposed to the risk of being proceeded against under this section unless its operation is limited in the way I suggest; and this danger will be all the greater when it is further borne in mind that the amalgamation of the large suburban area with the town will increase their responsibilities a great deal without providing them with adequate funds to discharge those responsibilities. Therefore, I submit, that the first of the two amendments I propose ought to be accepted by the Council.

Then as regards the second amendment, it is quite true, as the Select Committee observe in their report, that the discretion and forbearance of the Government constitute the best guarantee that can be afforded against any unnecessary or arbitrary exercise of the power; but, I submit that it is equally true, in the case of an important public body like the Calcutta Corporation, that their own good sense and the control of public opinion will be sufficient in all ordinary cases to induce them to perform their duties. And if it is thought necessary to guard against neglect of duty by the Corporation in important cases by legislative enactment, I submit it is at least desirable, if not necessary, to make some provision in the same law against any hasty or injudicious exercise of the power of control in any case. And this necessity will appear most clearly when it is remembered that the Corporation, with their limited funds and almost unlimited responsibility, will always have to choose between two evils. They will always be obliged to neglect, for a time at least, duties of a less urgent nature in order to discharge others of a more

ought to be heard in their defence. The Local Government may, after considering such explanations as the Commissioners may offer, appoint a Commission, as in section 28 of the present Act. Such a Commission, if properly constituted, would form a proper bench to judge of the issues between the persons complaining of default by the Commissioners on the one hand, and the Commissioners on the other. After our experience of the last Commission, it is necessary that the Government should specify in detail the work or works neglected, and the exact amount of work to be done. The danger of a special officer, spending money without limit on any particular work, may so cripple the municipality as to lead to the neglect of more pressing work in other directions. The resources are not unlimited, and the expenditure should be regulated according to income."

And the representation of the Indian Association have also made similar observation. After comparing the provisions of the existing law with the section in the Bill, they say—

"It will be seen at once that the powers of control claimed under the new Bill are far more summary in their operation than what is provided for in the existing law. Under the present law, the Government cannot take any action except as the result of a public enquiry. Under the Bill no public enquiry need be made. If the Government is satisfied that default has been made—it does not matter by what process—the Municipality may at once be coerced to carry out the orders of Government. But the fact remains that the powers of control reserved to the Government by the existing law have been found by actual experience to be amply sufficient for all purposes."

With these observations I leave the matter in the hands of the Council. I think this is a matter which demands our earnest attention, and I hope that the Council will accept the amendment proposed by me.

The Hon. Dr. Gooroo Dass Banerjee said :—I beg to move that, in section 38, line 5, after the word "duties" the words "relating to public health" be inserted. I also move that, in line 7 of the same section, after the word "enquiry" the words "by a Commission consisting of three persons, two of whom shall be appointed by the Local Government, and one by the Commissioners in meeting" be inserted. The object of these amendments is of a nature similar to that which my hon. colleague who has just sat down has in view in proposing his amendments. The only difference between his amendment and mine consists in this, that whereas he would revert to the old law with very slight modifications, my amendments take a middle course between the old law and the provision contained in the Bill. I fully admit the necessity of the Government having control, but

[*Babu Kali Nath Mitter.*]

Though I look upon this right of appeal as a concession to my objections, yet I am not satisfied with the section as it has been framed by the Select Committee; and I think it is necessary that there should be material alterations made in it to show the public that since the passing of the Act in 1876 nothing has happened which would justify an alteration of the law on the subject. Within ten or eleven years it was only once that the Local Government thought fit to have recourse to this section. I do not wish, for obvious reasons, to enter into that discussion further than to show that all the recommendations of the Commission were altogether accepted by the Commissioners, and they gave effect to them so far as the Government requested them to do so, not putting their request under the provisions of the law, but appealing to the good sense of the Commissioners. I believe the hon. member in charge of the Bill will bear me out in saying that every one of those recommendations has been attended to. Suppose the law then stood as it is now proposed to make it, what would have been the consequence? I think the consequence would have been the supersession of the Commissioners, and then a grievous mistake would have been committed. As regards matters of vast importance, of course the Local Government should have a power of control; but while conceding this control there should be the safeguard of an independent enquiry. In 1876, and also upon the present occasion, it has been said that this power exists in England and in Bombay. As regards England, the cases are totally different. There the Government does not appoint a single Town Councillor, but all of them are elected by the rate-payers, and the Chairman is elected by themselves; so that in every sense local bodies there are wholly independent of Government control, and moreover all large municipalities, as far as I have been able to ascertain, are represented in Parliament, and that of itself is a safeguard against the capricious action of Government. I appeal to the Council and to Your Honour to say whether it is likely the town will suffer in the least by adopting the section I propose? If the town will not suffer, I think it will be an act of grace towards the Commissioners and the rate-payers not to alter the law so materially as is proposed. On this subject both the British Indian Association and the Indian Association have made representations. The British Indian Association in their letter says—

"The controlling power of the Government is proposed to be made more summary than at present. The exercise of such summary power would not only be inexpedient in the face of the very reasonable provision at present existing, but unjust to the Commissioners, who

and to the expenditure annually of not less than two lakhs of rupees for these purposes. Clause (4) refers to the maintaining of a water-supply; and (*a*) and (*b*) of clause (5) to the cleaning and conservancy of Calcutta, and the maintenance and cleaning of drains and drainage works. These are the most important duties which the Commissioners have to perform. They have immediate reference to the health of the town, and in respect of which the Government should have a power of control. As regards clauses (1) and 2), they are so important and so essentially a part and parcel of the working of the Municipal Act that I have not thought it necessary to include them in section 38, because the payment of interest and the establishment of a sinking fund are the first duties of the Corporation. If the Commissioners can be trusted with the administration of the municipal affairs of the town, they should be trusted to make suitable provision for these purposes. I cannot conceive it possible that under any circumstances these duties would not be performed, but if it is thought desirable that they should be included, though the section will then need slight modification, I shall have no objection to offer. I have excluded them simply because they are primary duties, and it is not possible to conceive that under any circumstances these duties would be neglected.

Then as regards other matters, I submit that they are matters of detail which may be left to the Commissioners, subject to the control of public criticism and to the influence which the Press can bring to bear on the Commissioners. I put it to the Council and to Your Honour, whether or not it would be utterly absurd to supersede the Commissioner, because two or three streets had not been named! That, however, is how the section stands. While it is desirable that the Local Government should have this power in matters of vast importance, I think it is desirable that such power should be safeguarded, and the safeguard should be an enquiry by a Commission. The members of the Select Committee, in dealing with this subject, say in the first page of their report, chapter II:—

"Section 37 enumerates the duties of the Corporation. This section has been enlarged to include all that should be included as the duties of the Commissioners, and section 38 confers ample powers on the Local Government to compel the Corporation to discharge any of these duties should it neglect to do so. We could not recommend the re-enactment of the cumbrous and unworkable sections of the former law. On the other hand, the discretion and forbearance of the Government constitute the best guarantee which can be given to the Corporation against a hasty and injudicious use of this power. We have introduced an appeal as of right to the Government of India."

Commissioners. If that is so, why should it not be stated in the law that, before this power is exercised, the Commissioners shall be heard? Again it was said that the wording of the present law makes the provision unworkable. I have, therefore, thought fit to alter the wording of the section, and I am confident that the section, as I have framed it, cannot be said to be unworkable. If there is complaint made, the Commissioners are to be heard, and if the Government is then satisfied that default has been made, there is to be a Commission appointed. The Sanitary Commissioner or any one acting for him is to be one of the arbitrators; the second arbitrator is to be appointed by the Commissioners, and the third by the Local Government; and these three arbitrators are, within a time to be fixed by the Local Government, to find whether any such default as has been complained of, has been made. If they find that default has been made, then they are to state what, in their opinion, should be further required to be done in regard to such matter. After the Commission makes its report, the Local Government is entitled to call upon the Commissioners to carry out what the members of the Commission have awarded; and if they fail to do so, the Chairman of the Corporation is to supersede the Commissioners. That is how the section I have framed will practically work; it will substantially leave the law in the same position as at present. No outsider is to supersede the Commissioners; the supersession will be by the Chairman under the special authority of the Local Government, but this supersession would not take place until after a proper enquiry. It is said that such an enquiry will take time. No doubt it will take some time, but time should not be objected to in a matter of this kind. It is entirely in the hands of the Local Government to fix the time within which the report is to be submitted by the Commission. If the complaint is in respect of a matter of very urgent importance, which can be enquired into within two or three days, the Local Government might fix a very short time. If, on the other hand, it is a matter of a complicated nature in which there is no great urgency, the Local Government may fix a longer time for the members of the Commission to make enquiry and submit its report. Therefore, as far as the objection goes that the procedure is cumbrous and unworkable, I submit that the section framed by me will not be open to that objection. Then, again, I have limited the enquiry to one of the duties enumerated in clauses (3) and (4) and (*a*) and (*b*) of clause (5), which are the most important matters. Clause (3) refers to completing and extending the drainage works throughout Calcutta, and the opening out and improving of bustees

The HON. BABU KALI NATH MITTER said in reply:—I agree with my hon. colleague that it will be very desirable to discuss all these amendments together. If I succeed in having section 38 substantially altered, the objection to section 37 will be very much minimised. I have therefore not the slightest objection to the course proposed.

[HIS HONOUR THE PRESIDENT on that understanding asked the Hon. Babu Kali Nath Mitter to proceed with his next amendment No. (5).]

The HON. BABU KALI NATH MITTER said:—My objection to section 38 of the Bill is this, that when the Act of 1876 was under consideration a similar objection was taken by various public bodies, and thereupon this and some other sections of the Bill were referred back to the Select Committee for further consideration. After a good deal of discussion, after hearing delegates and counsel on behalf of several public bodies, the section which stands in the Act was adopted, and the then Lieutenant-Governor expressed his fullest concurrence in the alteration made by the Select Committee. When the present Bill was laid before the Select Committee in the first instance no change was proposed in the section. It was only at the very last moment that the Hon. Mr. Macaulay thought fit to produce the present section 38 in lieu of the section in Act IV of 1876. The reason assigned by him was, that the provision as it stands in the Act is cumbrous and unworkable. As far as it is cumbrous and unworkable, no doubt it will be necessary to remodel it; but I do not think that because it is cumbrous and unworkable, therefore the law should be materially altered so as to give uncontrolled power in the hands of the Local Government. The powers under the present law are these. In the first place the power is to be exercised only in a few cases, that is in cases where adequate provision is not made for the conservancy and cleaning of the town so as not to secure its healthiness. In the second place if the Commissioners failed to take steps to improve the bustees of Calcutta, and thus to secure the healthiness of the town, then the law authorises the Local Government to step in. But before the Commissioners can be superseded in any way, the present law provides as the most important matter that there should be an independent enquiry, and unless in the course of that enquiry it appears that default has been made within the terms of the law, the Commissioners cannot in any way be superseded. This safeguard does not appear in section 38 of the present Bill. I was told in the Select Committee that due enquiry would mean after hearing

which they may be in a position to carry out such works; but if these are put in the section as duties to be performed by the Commissioners, they would have to be performed irrespective of the question whether funds are available or not. The section which has already been passed (section 36) declares the purposes to which the Municipal Fund may be applied, and I think that should be sufficient, leaving it to the discretion of the Commissioners to carry out those objects as far as might be practicable. Then, with regard to the watering and lighting of streets. The whole of the town at the present moment has not been lighted. It would depend very much on the state of the funds as to what parts can be lighted and what cannot be lighted; and therefore it is essentially necessary to leave it as a matter of discretion as at present and not to convert it into a duty. Then, again, as regards the abatement of nuisances. There is a section of the Bill (section 389) which shows that the Commissioners have to be satisfied that there is real necessity for taking up a case before they can be called upon to take it up. But if it is to be a duty, then as soon as a complaint is made they will have to take it up as a duty; there is no discretion left. Under these circumstances, I move that the clauses which I have mentioned be omitted from section 37. I wish it to be distinctly understood that I do not for a moment mean that by the exclusion of these clauses, I intend that the Commissioners are not to give those matters their very best consideration; but having regard to the large area to be included in the town it is very difficult to foresee what the Commissioners will be able to do.

The HON. SIR HENRY HARRISON said:—I wish to ask whether it will be possible to consider amendments Nos. (2) to (5) together, voting upon them of course separately, because the Hon. Member who has just moved amendment No. (2) has admitted that the objection does not lie to the clause itself, but only when it is read with section 38. It seems to me that substantially the question involved by amendments Nos. (2) to (5) is an alteration in the framework of section 37 as read with section 38. I think it would shorten and simplify our procedure if these amendments are all considered together. Suppose section 38 were altered? Suppose we omit the clauses of section 37 mentioned in amendment No. (2), and the Hon. Member then suggests a very different control section, the position of Hon. Members will be a a very difficult one? It will therefore be far more convenient if the whole of these amendments are treated as involving one large question.

[*Dr. Mahendra Lal Sircar; The President; Babu Kali Nath Mitter.*]

The Hon. Dr. Mahendra Lal Sircar said:—I have to request that maps showing the proposed boundaries be circulated to the members; otherwise it will be impossible to come to any definite conclusion as to what the boundaries should be. This is what I have been insisting upon from the beginning, as I have not been able to procure a map which gives the correct boundaries in the plan.

His Honour the President said:—I think that the map which the hon. mover of the amendment has will show very distinctly what he proposes. I do not wish to postpone the discussion till the end of the Bill, but I thought that if the Hon. Member explained to-day what he proposes, we may give ourselves till the next meeting to consider his proposals after having seen his map, instead of merely trying to follow the printed description of the boundaries. I think we might be able to meet the hon. gentleman to a certain extent. The portion of country which he wishes to exclude is no doubt distinctly of a rural character, but I should have preferred if he took the Bhowanipore and Kallighat road as the western boundary, instead of the Tollygunge road, because the part of country between them is distinctly of an urban character, and very thickly populated. If we could come to an agreement on these lines, I shall be glad to try to meet him. We can discuss the matter at our next meeting after the hon. gentleman has seen on the map the boundaries which the hon. mover of the amendment proposes to prescribe.

[The further discussion of the amendment was postponed on this understanding.]

The Hon. Babu Kali Nath Mitter moved that (*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*) and (*k*) of clause 5 and clause (6) of section 37 be omitted.

He said:—When this Bill was before the Council on the last occasion, the section which is now No. 37 was then section 30, and in the latter certain matters only were included as the duties of the Corporation. Take for instance the naming of streets and the numbering of premises. If general default is made by the Commissioners in the numbering of streets, they are to be superseded. I do not think it was ever intended that such should be the case, nor is it very likely to happen. The construction and maintenance of public latrines, urinals, and other public conveniences. These matters depend very much upon the funds at the disposal of the Commissioners as to the extent to

[*Sir Henry Harrison; The President; Dr. Gooroo Dass Banerjee.*]

The HON. SIR HENRY HARRISON said:—We have already considered the first 36 sections of the Bill, and therefore I move that we begin with section 37. The first amendment on the list of business belongs to the chapter of definitions, and will naturally come on for discussion when that chapter is considered. As we have only to-day seen the exact line which the Hon. Member wishes to take, we shall be able to consider it at another meeting.

HIS HONOUR THE PRESIDENT said:—The Hon. Dr. Gooroo Dass Banerjee may explain to-day what his motion is, and we may postpone the discussion to another day.

The HON. DR. GOOROO DASS BANERJEE said:—The amendment of which I have given notice regarding the definition of "Calcutta" differs only in one respect from definition No. 7 in the Bill. It excludes from the Suburban area which the definition in the Bill proposes to include only a portion on the south side, namely the portion bounded on the north by the line of roads commencing from the east with the Tiljullah Road, and going along the Ballygunge Circular Road, the Puddopookur Road, the Pakoortollah Road, and the Chaoollputty Road, till it comes to a point where Tolly's Nullah turns south; and the portion excluded in my amendment has, for its western boundary, Tolly's Nullah. This is how it appears on the map. The line marked blue is the northern boundary of the portion I propose to exclude; and the other line, which is Tolly's Nullah, is the western boundary. The parts of the portion excluded, which are in the immediate vicinity of the northern and western boundaries, are, it is true, populous; but as we proceed further on towards the south from the northern boundary and towards the east from the western boundary, we come to places which are scarcely suburban, and which are of a rural character, and may safely be excluded from the operation of the Bill. I have no objection to postpone the discussion of the question now, but in that case I will ask permission to come back to any part of the Bill which may involve any question as to the extent of area involved, if such part is disposed of before the question of the definition is finally settled. I do not however think there is any important part of the Bill, which will render this necessary, now that we have disposed of the question of the number of wards.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 & 25 Vic., Cap. 67.

The Council met at the Council Chamber on Wednesday, the 4th April, 1888, at 11 A.M.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON, KT.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. BABU KALI NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.
The HON. C. H. MOORE.
The HON. DR. GOOROO DASS BANERJEE.
The HON. H. PRATT.

NEW MEMBER.

The HON. MR. PRATT took his seat in Council.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The HON. SIR HENRY HARRISON moved that the final Report of the Select Committee on the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta be taken into consideration in order to the settlement of the clauses of the Bill.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON also moved that the clauses of the Bill, as further amended, be considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

concerned, they were not responsible for the delay. I do not see why the public should not have a reasonable time to consider the important alterations made in the Bill which affect their interest.

The Hon. the President said:—Before putting the motion, I should like to say a few words on the subject. This Council would as a matter of course on all occasions regard public convenience; but the question is whether convenience in respect of other matters should not also be taken into consideration. The question is whether the proposal is a reasonable one. Now, when we come to consider the fact pointed out by the Hon. Mr. Macaulay that the task of preparing this report has taken three months, I apprehend the request to have six weeks time to consider the work which has been done by the Committee in three months seems relatively a long period of time. Nor can I believe the public to be altogether ignorant of the main provisions of the Bill. From my own experience I have found that when any important subjects are made public we have within a week in the public prints criticisms of every description. I cannot therefore help thinking six weeks an unreasonable time to ask, and I have no doubt that two or three weeks will be more than sufficient, especially when it is remembered, as observed by the hon. member in charge of the Bill, that many portions of it are taken from the old Bill with some amendments, but containing no new principle. All these portions of the Bill may be considered in Council while the public are discussing the effect of the radical changes which have been made, and there will be ample time for the public to submit all their representations to the Council. Bearing in mind that the Bill has been before the public for a ... time, I am opposed to the extension of time for the publication of the Bill for ... x weeks.

The Motion was put to the vote and negatived.

The Council was adjourned to Saturday, the 31st March, 1888.

C. H. REILY,

Asst. Secy. to the Govt. of Bengal,
Legislative Department.

Calcutta;
the 13th March, 1888.

No. 18889G—300 21-3-88.

the public for a very long time. We have therefore before us some weeks important discussions regarding the constitution of the Town Council and various other matters which have been untouched by the Committee ; and during the time we discuss these matters, the public will have an opportunity of expressing an opinion on the important alterations in the Bill. So that, looking from both points of view, the time left to the Council, as well the convenience of the public, I am bound to say I think we shall consult the convenience of both parties if we allow a period of three weeks before commencing to discuss the Bill in Council. I feel pretty confident that we shall hardly reach the new sections of the Bill under six weeks. For these reasons I think it will be a pity if we wait for a longer time than three weeks before we begin to consider the Bill in Council.

The Hon. Babu Kali Nath Mitter said :—I find that the first section of Bill which has undergone considerable change is section 37—the very first section which will come up for discussion. The duties of the Corporation are enumerated in that section, and those duties were numbered in the Bill as before amended from Nos. 1 to 5, but now clauses (*a*) to (*k*) have been added to those duties. This of itself may not be of much concern, but under the very next section a power of control has been given to the Local Government in reference to the performance by the Commissioners of any of the duties enumerated in section 37. I am not prepared at present to say whether there are any other important changes in the early sections of the Bill ; but it seems to me that this is hastening unduly the consideration of the measure. The Hon. Mr. Macaulay has complained of the delay which has taken place in Select Committee, but who was responsible for such delay ?

[The Hon. Mr. Macaulay said :—My hon. friend is under a misapprehension. I made no complaint of delay, and I made no reference to any delay on the part of the Select Committee. I said that the Bill had already been for two years before the Council, and yet you want to give six weeks more for public critics to give their opinion upon it in what you describe as an intelligent and proper manner. I did not say that there had been any unnecessary delay, but I said that the delay which had taken place had been made the subject of public criticism.]

The Hon. Babu Kali Nath Mitter continued :—The delay had been brought about by the important changes which had been suggested by the hon. member in charge of the Bill, and therefore, as far as the Committee

lic sho
le in

[*Babu Kali Nath Mitter ; Mr. Macaulay ; Sir Henry Harrison.*]
T
them, and knowing, as has been hinted, that the people of Calcutta intend to hold a public meeting to consider the provisions of the Bill, I think it is better that they should be afforded an opportunity of submitting their representations, so that, before the Bill is taken into consideration by the Committee, we should have the views of the public put before us in an intelligent and proper manner.

The Hon. Mr. Macaulay said :—I submit it is quite unnecessary to give such a long period for the consideration of this Report and Bill. The Select Committee, sitting about twice a week, have taken only three months to consider and report upon the Bill in detail, yet the hon. member asks that one-half of that period may be given to enable the public to make up their minds on the Bill, and to submit their views in an intelligent and proper manner. I am far from underrating the value of intelligent public discussion ; but I venture to think that opinions of any value can easily be laid before the Council within the period of three weeks for which, I understand, my hon. friend who is presiding proposes to adjourn the Council. I think that to give an interval of six weeks will be simply to suggest an increase of the delay which has already formed the subject of public criticism. We have nothing to gain by it, and it will only obstruct the course of legislation.

The Hon. Sir Henry Harrison said :—My own view of this matter, as the member in charge of the Bill, is that, if we had an unlimited time at our disposal, I should be glad if the six weeks which have been asked for could be given ; but the function of a reasonable person is to balance considerations on opposite sides. What we have to consider is what will be the effect of giving six weeks' time before commencing to consider the first section of the Bill in Council. Six weeks will bring us to the end of April. We have not only to consider what time we should give the public, but also what would be reserved for the Council. Suppose the legislative session to be carried on even into July, we shall deprive ourselves of a very considerable portion of the time before us if we postpone all action for six weeks. Now, as I mentioned in my former remarks, the parts of the Bill which come first are precisely those parts which have been before the public for a whole year. I do not think any change of any importance at all comes before section 100 of the Bill. On a reference to the eport of the Committee, I find that the first of the important changes comes in ection 99. I cannot call the sections relating to petroleum an important hange, though it may be an important question : the proposal has been before

date. As regards the report itself and the Bill which accompanies it, I may perhaps be permitted to let them speak for themselves. It will suffice to say that the main alterations we have made are connected with the system of levying the rates with the water-supply, and above all with the building regulations. I may observe that the whole of these come, if not in the latter part of the Bill, at least towards the middle of it, and therefore if the Bill is taken into consideration, say three weeks from the present time, it should not be inferred that only three weeks are therefore allowed for the consideration of the most important changes in the Bill. The earlier chapters of the Bill have been very little altered indeed, and substantially these have been before the public for the whole space of a year. Consequently, before we reach in Council those portions of the Bill in which material changes have been made, a considerably longer period will have elapsed. With these remarks I ask the Council to accept the Report.

The HON. SIR HENRY HARRISON then moved that the Bill as further amended, together with the final Report of the Select Committee thereon, be published in the *Calcutta Gazette*.

The HON. BABU KALI NATH MITTER moved that the words "for at least six weeks" be added to the motion.

The HON. THE PRESIDENT said:—The motion before the Council is to publish the Report of the Select Committee and the amended Bill. No time is fixed. The hon. member can bring forward his proposal as a separate motion if he thinks fit.

The HON. SIR HENRY HARRISON's motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that the amended Bill be published for at least six weeks. He said:—The changes which have been made in the Bill are so numerous and so important that it is absolutely necessary that the public should be afforded a reasonable time to consider them before the Bill is taken into consideration by the Council, and I think six weeks is a reasonable time to give for the purpose. Anything short of that would be too little. Not having been furnished with a copy of the Bill as altered by the Select Committee, it is impossible for me to point out the various and numerous changes made in the Bill. Besides, as far as I am concerned, the Bill has now been presented in a form which is far more objectionable than what it was when last reported upon. Many of the alterations which have been made are such that I am entirely opposed

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Beng assembled for the purpose of making Laws and Regulations under the provisions the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 10th March, 188 at 1 P.M.

Present:

The Hon. G. C. Paul, C.I.E., Advocate-General, *Presiding.*
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. Sir Henry Harrison, Kt.
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. G. Irving.
The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Das Banerjee.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The Hon. Sir Henry Harrison presented the final Report of the Selec Committee on the Bill to consolidate and amend the law relating to th municipal affairs of the Town and Suburbs of Calcutta. He said:—In pre senting this report, I owe it to the Committee to state that they have devote much care and time to the consideration of the many suggestions witl which they have been favoured by the several Associations and other Publi Bodies who reported on the Bill. We wished we could have presented thi report at an earlier period, in order that the public might have had a longe time to consider it before it must be taken up again by the Council. But th time which we have taken to give adequate consideration to all the materia points laid before us has been such that, though we have made every speed consis tent with due care, we have not been able to complete our work at an earlie

[*The President.*]

The Motion being put, the Council divided:—

Ayes 9.	*Noes* 4.
The Hon. Dr. Gooroo Das Banerjee.	The Hon. C. H. Moore.
The Hon. G. Irving.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Moulvie Abdul Jubbar.	The Hon. Babu Kali Nath Mitter
The Hon. Sir Alfred Croft.	The Hon. T. T. Allen.
The Hon. Sir Henry Harrison.	
The Hon. C. P. L. Macaulay.	
The Hon. H. J. Reynolds.	
The Hon. the Advocate-General.	
His Honour the President.	

So the Motion was carried.

HIS HONOUR THE PRESIDENT said:—The Council will remember that on the 7th of January the Select Committee laid before the Council the first instalment of their report, and I then took the opinion of the Council as to whether we should proceed to consider that report after its publication, or whether we should wait till the full report of the Committee was before us; and the general opinion seemed to be that we should proceed with the consideration of the preliminary report of the Select Committee. I was under the impression at that time that the full report would have been published before now. In that I have been disappointed. I have no doubt that the Select Committee are very wise and right in not hurrying the matter, but I think it necessary to explain that I should not have asked you to go on with the consideration of the first instalment of the report unless I had reason to suppose that the rest of the report would have been ready by this time. Neither can I tell you now when it will be ready. When it is ready, it will be published, and time will be given for its consideration. I propose to adjourn the Council now, and call you together again for a purely formal meeting to receive the report when it is ready, and then to fix a day for the consideration of the report.

The Council was adjourned *sine die*.

GORDON LEITH,

Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 28th February, 1888.

Reg. No. 18866G—300—21-3-88.

[*Sir Henry Harrison ; The Advocate-General ; Sir Alfred Croft.*]

the criticism which His Honour the President directed against the Commissioners It is better, however, to be conscious of your own weakness than to pretenc to a strength which you do not possess. I am afraid that with their strong sympathy for education, the Commissioners would be unable to resist skilfu pressure; but in the case under consideration they will be very unlikely to vote funds for any other Municipality unless an overwhelming case were made out

The HON. THE ADVOCATE-GENERAL said he thought that, with the amalgama tion of the Suburbs, this amendment becomes an absolute necessity.

The motion was put to the vote and carried.

The HON. SIR ALFRED CROFT moved that the following new clause be added to section 36:—

"(14). Provision of free libraries"

He said—Little argument is needed to show that the establishment of a free library in the town would be a great advantage to an educated population and it is proposed to allow the municipality to devote a portion of its funds to such a purpose. The provision would be permissive. Such a provision is contained in the District Municipal Act of Bombay, where Municipal Fund may be devoted to the maintenance of libraries and museums. In the particular case of Calcutta, the question derives importance from the fact that two years ago a proposal was actually made that the public library at the Metcalfe Hall should be transferred to the control of the Calcutta Municipality, or else that the Municipality should make a contribution to it. The desirability of having such a library was admitted, but there were two reasons why the Municipality did not then accept the offer. In the first place they doubted whether the project was expedient at the time and in the circumstances that existed but in the second place they pointed out that the Municipal Act made no provision for the application of Municipal Funds to such an object. The Government of Bengal, in addressing the Municipality on the subject, said that should the Corporation be inclined to devote its funds to such a purpose, the necessary provision would be introduced into the new Municipal Bill. As it seems to me that the question may arise hereafter as it did before, and that possibly the Calcutta Corporation may then desire to devote a portion of its funds to such a purpose, a clause enabling them to do so should be inserted in the Bill.

The HON. DR. GOOROO DAS BANERJEE moved that the following new clause be added to section 36:—

"(13). Contribution to any neighbouring municipality for sanitary purposes."

He said that after the amalgamation the new municipality would be brought into immediate contact with poor municipalities on the north, east and south of the town. These poor municipalities not being at any considerable distance from the town, the health of the town might be affected by those subtle agencies by which disease is spread, so that for the health of the town the sanitary improvement of these poor municipalities would continue to be as much necessary as the improvement of the suburban area, now going to be amalgamated, has been felt to be for the improvement of the present town. And if these neighbouring municipalities are really from want of funds unable to carry out such matters, it is certainly necessary that the town should curtail some of its items of expenditure, for certain purposes which may without offence be considered superfluous, for the purpose of applying the money to that which is necessary not only for the health of its poor neighbours, but also for that of the town itself. And here we have very good precedent. In section 70 of the Mofussil Municipal Act, there is a provision for making similar contributions to neighbouring municipalities. If poor and backward municipalities in the mofussil can afford to make these contributions, there is no reason why the richest and most advanced municipality of the metropolis should be unable to make similar contributions to its poorer neighbours, especially when the contribution will be for its own welfare. It should also be borne in mind that the insertion of this clause will not impose any obligation on the Calcutta Corporation, but will only enable it to make grants when it has funds at its disposal and when a fit case is made out, and the Calcutta Corporation itself will be the judge of such fitness. They who will be the judges have themselves in one sense an opposite interest, and there is no likelihood of their making any such contribution unless the necessity is clearly proved and unless the contribution be for their own benefit.

The HON. SIR HENRY HARRISON said:—I entirely agree with the hon. member, and precisely for the reason he has given. It might, for instance, be for the benefit of the health of Calcutta to assist in the sanitation of the island of Ooltadanga or of Chitpore or Cossipore. The municipality would be very unlikely to sanction any expenditure unless the Commissioners were satisfied that a sufficient case was made out. I am afraid I shall again incur

them. I am not disposed to think that the Municipal Commissioners of Calcutta are so weak. I myself believe that, with the advice and assistance they are likely to get, they will be capable of spending money, at all events on primary education, wisely and well. The principle has been accepted in every town in India, and certainly elsewhere. I do not want to discuss the necessity or the propriety of it in Calcutta, but as a matter of principle I am not prepared to tie up the hands of the municipality, and to say that without special legislation they shall not spend a penny on primary and technical education.

The HON. SIR ALFRED CROFT'S motion that after clause (11) of section 36 the following new clause be inserted:—"(12). Maintenance, support and inspection of schools, including technical schools," being put, the Council divided:—

Noes 9.	*Ayes* 4.
The Hon. Dr. Gooroo Das Banerjee.	The Hon. Sir Alfred Croft.
The Hon. C. H. Moore.	The Hon. C. P. L. Macaulay.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. H. J. Reynolds.
The Hon. Babu Kali Nath Mitter.	His Honour the President.
The Hon. G. Irving.	
The Hon. Moulvie Abdul Jubbar.	
The Hon. Sir Henry Harrison.	
The Hon T. T. Allen.	
The Hon. the Advocate-General.	

So the Motion was negatived.

The HON. DR. GOOROO DAS BANERJEE'S motion that after clause (11) of section 36 the following new clause be inserted:—"(12) Promotion of primary and technical education," being put, the Council divided:—

Ayes 7.	*Noes* 6.
The Hon. Dr. Gooroo Das Banerjee.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Sir Alfred Croft.	The Hon. G. Irving.
The Hon. Sir Henry Harrison.	The Hon. Moulvie Abdul Jubbar.
The Hon. C. P. L. Macaulay.	The Hon. T. T. Allen.
The Hon. H. J. Reynolds.	The Hon. the Advocate-General.
His Honour the President.	

So the Motion was carried.

such contributions, from their benefit after the passing of this new law.

Then with reference to the remarks of the hon. the Advocate-General, he observed that the time had not arrived for the appropriation of any part of the Municipal Fund to purposes of education. I freely confess that I feel the force of his observations and those of the hon. the Chairman of the Corporation, that for some time to come the municipal fund will be sufficiently taxed by new burden thrown upon it. But still I cannot persuade myself that the provision of a small contribution which the limited scope of my amendment will necessitate will be anything but remunerative. I am sorry I have not been able to place in the hands of the Advocate-General some of those simple sanitary primers in Bengali which ought I think to be scattered among the poor population of Calcutta. I may be a little enthusiastic in my admiration of these little books, and of the importance of primary education in securing free and willing obedience to our municipal regulations on the part of the people. But I am not singular in my expectations, for such expenditure has in other places been regarded as remunerative. The small extent to which the municipal funds will be taxed will be more than returned—if not immediately, certainly in the course of a few years.

HIS HONOUR THE PRESIDENT said:—I think I ought to make a few remarks before putting this question to the vote. I confess that the turn which the debate has taken on this point has rather disappointed me. I have always been told that the municipality, under the guidance of its admirable Chairman, had really been doing very good and very great work during the last fifteen years. I had been led to suppose that they were capable of expending their funds with something like reason, and that really they might be left to themselves in these matters. Again I have been informed on the best authority that though they loved education, yet they also loved sanitation, and that they were most eager to carry out whatever was reasonable in the recommendations before them. I had certainly gathered also that under the guidance of their able Chairman they had very considerable powers of resistance, but now we are informed that, however hard up they may be, however their funds were pledged to sanitation, however impossible it may be to spend money on schools, yet on the very first onset the cry of the body of educationists would be so strong that both they and their Chairman would be incapable of resisting the appeal, and that their funds would be at the mercy of everybody who came to

the means to meet. I objected to "entertainments" because of its being a source of expenditure, and secondary education is thrown upon the municipality. I certainly think that the expenditure on such an object would be enormous, and that the Commissioners will not be able to resist the temptation of spending money under this head: the cry for help will be so great that it will be impossible to resist it. When this matter was discussed by the Commissioners, though one party was violently opposed to the introduction into the Bill of education as one of the objects of expenditure, because the funds at disposal would not enable them to spend money on education, another party, equally strong, thought that at any rate primary education should be provided for. Ultimately the latter prevailed, and the resolution that was passed was that, so far as primary education was concerned, some provision ought to be made. As has been very justly pointed out by the hon. mover of the first amendment, that at the present time some of the schools which exist in the area going to be added do receive some contribution from the Suburban Commissioners, it was thought proper at one time to provide for them, and no further. To that limited extent I am quite prepared to support the hon. member, because I think it right that the schools which at present enjoy a contribution should continue to enjoy it. But beyond that I am not prepared to go. The prospects of the future municipality seem to me to be gloomy. Powers are being given to them in the exercise of which it will be necessary to have large sums at their disposal; but as far as I have been able to see, those funds are not available. That being so, I regret I cannot agree to the amendment of my hon. friend Sir Alfred Croft.

The Hon. Dr. Gooroo Das Banerjee in reply said:—One of my hon. colleagues has been pleased to observe that the diverting of any portion of the municipal fund to purposes of education will be a fraud upon the rate-payers, unless they are previously told that part of the taxes they are paying will be devoted to that purpose, and unless an education rate is levied. We know that, in the suburban area at any rate, it can by no means be open to such remarks, because we have such provision made in the Act in force there. Therefore I take it that the strong language in which my hon. friend has criticised this amendment is after all a matter of rhetoric and eloquence with a large measure of which Nature has blessed him. But the ground upon which I based the amendment was that it would be a matter of disappointment to expectations and vested interests to deprive the suburban schools, which already enjoy

preceded them, viz., by objects connected with public safety, health or convenience. I assert none of these heads comprehends education and free libraries. The Hon. Dr. Gooroo Das Banerjee, who is a learned lawyer, perceiving very clearly that unless he could in some way associate this educational purpose with sanitation, or some one of the purposes of the section, ingeniously connected it with sanitation. He said that if you give the people education you purify their hearts, their thoughts and their manners, and you will consequently be able to reduce your expenses of sanitation and your establishments, and in due course of time less expenditure will be required for sanitation. But that is after all an indirect means of aiding sanitation. I think if he is entitled to use the argument to which I have just adverted, I am equally entitled to answer it by saying if you are justified in incurring expenditure in purifying the hearts and minds of the people, why not enable them to purify and cleanse their bodies by the help of soap purchased out of Municipal Funds and distributed gratuitously in large quantities, and thus aid the scheme of sanitation by an indirect means as potent as that advocated by Dr. Gooroo Das? I must not be supposed to complain of the argument used; I would merely point out that, unless ingenuity was brought to bear on the subject and used to afford some support to the position that education must be placed by the side of sanitation, the motion must fail. I think I have said sufficient to expose the fallacy of the argument, and I earnestly ask the Council that unless sufficient provision can be made for the necessary purposes of sanitation, we should not think of opening out new sources of expenditure for which, as the hon. member in charge of the Bill had told the Council, there would be numerous claimants. For a time it may be that this provision will merely be a permissive one. The municipal body is a large body with an experienced Chairman at its head. He may lead them in most cases rightly; but it may happen that members of the Municipality, holding the views of the hon. movers of these amendments, may insist upon education being provided out of Municipal Funds and succeed in over-ruling their opponents: in such a case there would be a grave responsibility incurred if the Municipal Funds be diverted from their legitimate objects of expenditure. Under these circumstances, I shall oppose these amendments.

The Hon. Babu Kali Nath Mitter said:—From the amendment which I moved on this section it will be quite evident that I am seriously alarmed at the prospect of expenditure which the Commissioners will not have

able to meet all this clamour? If you can impose an education rate, by all means have such a fund and declare the purposes to which it should be applied, but not otherwise.

The HON. THE ADVOCATE-GENERAL said:—As I intend to vote against this amendment, I consider it necessary to say a few words lest my silent vote should be supposed to indicate that I do not sufficiently appreciate the arguments which the Hon. Sir Alfred Croft has adduced in favour of the advantages of education, or that I am opposed to the general views he has expressed. If I could approach the subject of this discussion with the fact that the municipal funds of this town were unencumbered and in a flourishing condition, and with the assurance that the money which would be raised would be more than sufficient to supply all the wants of the town in respect of its sanitation, I would consider the present a proper time for discussing the question raised. Unless we are satisfied that the requirements of the municipality can be met in this respect, we are not in a position to introduce another subject of expenditure. Therefore, I do not intend to consider or discuss the question whether, strictly speaking, municipal institutions are concerned in education or not, nor even the merits of the smaller proposition put forward by the Hon. Dr. Gooroo Das Banerjee in reference to the larger measure advocated by the Hon. Sir Alfred Croft; I wish to impress upon the Council that the time has not arrived for these amendments. If I were perfectly satisfied that the funds now in hand were not all required for sanitary purposes in particular parts of the town of Calcutta, then, as I said before, the question would arise. So long as the Municipal Funds are urgently required for sanitary and other purposes, I would protest against enlarging the area of the subjects to which they might be applied. I would not enlarge it beyond the purposes stated in section 36 of the Bill.

And here I would point out a little discrepancy between section 36 and the amendments proposed to be introduced into it. Section 36 says—"The purposes expressly authorized by this Act shall be held to include the objects connected with the public safety, health and convenience hereinafter specified," that is to say—expenditure on account of certain purposes detailed in clauses (1) to (11) of the section. To these the Hon. Sir Alfred Croft would add "the maintenance, support and inspection of schools, including technical schools, and the provision of free libraries" as a twelfth subject of expenditure. This clause would be governed, as the whole of the other clauses are, by that which

provisions for constituting Local School Boards and for the imposition of a special educational rate, because the present rates have been certainly fixed with a view to the requirements of the town without taking into account any expenditure on education, and if such expenditure is to be added, I certainly think that power should be given to levy an educational rate.

For these reasons I think it extremely important that the Council should not introduce into Calcutta the principle of applying municipal funds for the purposes of higher education.

The HON. DR. MAHENDRA LAL SIRCAR said:—After the exhaustive speech of the last hon. speaker, conclusively disposing of the arguments of the hon. mover of the amendment, it would be superfluous for me to say much. I would simply ask the Council from what fund it is contemplated to provide for the maintenance, support and inspection of schools, and the maintenance of free libraries? It must be from what is known as the General Fund; and I would ask if anything of that fund would remain after it had been exhausted by the very comprehensive items of expenditure which had to be provided for out of that fund? Unless, therefore, it is intended to impose a new rate—an education rate—it will be found extremely difficult in practice to divert any portion of the Municipal Fund towards such purposes which, in my humble opinion, has no direct connection with the public health, safety and convenience. Impose an education rate, and then we shall know what portion of the Municipal Fund to appropriate to educational purposes. But unless you do so, to expend any portion of the municipal revenues upon education will simply be a fraud upon the rate-payers. With all my love for education, I have not been able to persuade myself that the provision of education forms a part of municipal duty. The arguments brought forward in favour of it might as well justify the municipality to maintain an army, a body of volunteers, Hindu temples, Mahomedan Masjids, Christian Churches. If you once adopt the principle of providing from the municipal fund for the maintenance, support, and inspection of schools, there would be no limit to the expenditure. Already there are a very large number of schools, and I hope the number will be multiplied a hundredfold. Would your municipal fund suffice for the provision of all these schools? The community of Calcutta is a heterogeneous community, and the question of nationality and race will most unpleasantly spring up. You will have Hindus and Mahomedans and Christians all clamouring for support of their schools from the municipal fund. Would the Commissioners be

because he has shown that there is no head of expenditure which has so rapidly increased with municipalities as education. He showed that the educational grant had grown from four lakhs to eleven lakhs in a short time. That is exactly what I should have expected. There is no object of expenditure which is likely to develop more rapidly. The one head which would soon grow with the greatest rapidity would be education. But as regards the circumstances of educational expenditure in other countries, there is considerable difference. In England, education is placed under special School Boards under the Act of 1870, and these School Boards fix their own expenditure, and they spend it. But it is obvious that Local Sanitary Boards or Municipalities, which are totally distinct bodies, are not deterred from spending money on sanitation because other distinct bodies are spending money on other objects. But in our case we should have the same body which is spending money on education—the body which has to judge of sanitary requirements—and there would be an inevitable tendency to substitute one class of expenditure for the other. Then again the difficulty with regard to each community in Calcutta would be very serious. Calcutta is not composed of one homogeneous community, whereas you have in mofussil municipalities a more or less homogeneous population, where there are Hindus or Mahomedans, or Hindus and Mahomedans. But here we would have classes of expenditure fundamentally different, which would come before the Municipal Commissioners. We have large schools of the European and Eurasian element which would appeal for support, and large schools of the native communities. A great many of these are no doubt self-supporting. Secondary education in Calcutta can be made self-supporting, and that is a strong reason why aid is not necessary for this class of schools. But it would be a very serious task for the Corporation to do justice between all the communities which would appeal to it for aid.

Lastly, there is this special difficulty that it is a fundamental principle which has been laid down by the Government of India that, as a rule, money should only be expended by municipalities on objects which are under municipal control; but although the amendment includes cases in which the municipality might have such control, it allows the municipality to make grants to any schools in behalf of which sufficiently strong pressure is brought to bear upon it, without there being any control at all. If a municipality cares to spend money on education, I think it extremely important that they should themselves exercise a control over its expenditure, and I would suggest that we ought to introduce some

source. I myself formed a more sanguine estimate, and leaned to the opinion th probably four lakhs may suffice. I took a more sanguine estimate than an other member of the Committee. Can any one in this Council doubt that as soon as the suburban area is added to the town we shall have the fullest possible use for all the funds at the disposal of the municipality? I admit that education is a legitimate subject of municipal expenditure, but I also maintain that it is a secondary object. It is not to be put on the same plane as the primary objects, such as the repair of roads, the removal of refuse, cleansing, sewering, supplying water, and in one general word "sanitation." If education is to supplant any of these objects, would it be right? I put it to the Council whether if Rs. 50,000 be taken from the purposes of sanitation and given to education, it would not be a mistake. That is a point on which I am so satisfied that I must press this view on the attention of the Council. I am far from sanguine that the effect of this amendment would be that only a small sum will be expended upon secondary education, but so far from that being likely, I feel it most probable that the expenditure under this head would soon be large. The people of Calcutta have a strong, natural and proper sympathy for high education, and the municipal body being in itself extremely sympathetic with educational institutions, we should have siege laid to our funds by perhaps the most experienced and skilful body that you could find to conduct such a siege successfully, namely, the large body of educationists in Calcutta who so much deserve and command the appreciation of the public; and the very fact of their appealing for help would go far to secure it. In the first instance some institution of an extremely beneficial character, and which met a recognised want, would probably come forward and would almost certainly succeed in getting a grant. One precedent having broken the ice, others would come in on the same ground, and before long—I appeal to hon. members who can judge of these matters—the educational budget would be a very ample one indeed. While that would be the case on the one hand, is there any reason to suppose that the natural and laudable desire of the rate-payers to keep taxation at its lowest limit would be diminished? While money would be granted freely for educational purposes, the temptation would be almost irresistible to effect economies in other directions in order to balance for the grant given to education. It is but fair to admit that my argument goes beyond the case of Calcutta. I admit that it equally applies to other municipalities in India. But strong as is the case which has been made out other ways, my hon. friend has on this point given me considerable assistan na

and practice of Bombay and other municipalities are concerned, they are all against me. In the Bombay draft Bill, which has passed the Select Committee, expenditure upon primary education is made compulsory, while as regards secondary education it is optional. In Bengal under the Municipal Act mofussil municipalities can spend money on education in giving grants-in-aid to schools and in various other ways. So that, except so far as our own Act is concerned, we have to face the contrary practice all round, and my hon. friend Sir Alfred Croft is justified in saying that the onus lies on us to disprove the propriety of adopting his amendment. Nevertheless that is which I am bound to attempt. My hon. friend referred to two arguments which might bear specially against his proposal. One is that the proposal is against the weight of practice or precedent elsewhere. That argument cannot be met because he proved successfully that both practice and precedent are against us. He also referred to the argument that heavy expenditure is required for the sanitation of Calcutta and the Suburbs, and that is the only argument I feel bound to press upon the consideration of the Council. The first point to recollect is that municipalities in India are essentially poor bodies; the municipalities of Calcutta and Bombay are by far the richest in India, but yet their means cannot compare with the means at the disposal of civilised municipalities elsewhere. Calcutta has to levy its taxation almost entirely by rates on property, and the assessable value of property in Calcutta does not exceed £1,200,000 a year. It is considerably less than one-twentieth of the rateable value of London, and the population of that city is only seven times larger. It is less than one-tenth of New York with a population twice as large It is less than one-fourth of Philadelphia with a population only slightly larger: so that the Calcutta Municipality cannot command anything like the funds of other large cities. But when we come to the question of expenditure, then we find that sanitation in Calcutta attains such importance that, so far from the expenditure being less, expenditure quite on the same scale as in English cities becomes obligatory. We are to have a large area in the most insanitary condition added immediately to the town. Nobody would say that the town itself is in anything like a satisfactory sanitary condition. The difficulty in adding the suburban area has been simply and solely this, that no one could suggest the sources from which the funds should come. The Amalgamation Committee was distinctly of opinion that I think six lakhs ought to be added to the funds of the municipality, from some

over

to establish, without interference from us, a complete system of education according to your view of what is necessary and sufficient, after other and more important requirements have been met. Of that, the municipality must be the best judge. The clause which I propose to introduce is not a compulsory one, as it is in Bombay, Burmah, and the Punjab. All that we propose to say is that, you *may*, if you see fit, spend a certain sum upon education; primary and technical education in the first instance; secondary education if you think it necessary. I confess that I do not see how the claim can reasonably be refused. We have this simple fact, that in all the rest of India municipalities do undertake the control and support of education, and do not limit it to primary education. If that is right for other municipalities, it is right also for Calcutta. If it is wrong in Calcutta, then you declare that the policy followed in every municipality in India is wrong. It seems to me that the burden of proof lies on those who deny that the municipality of Calcutta is qualified to exercise powers which are conferred on and exercised by every other municipality in India.

The HON SIR HENRY HARRISON said:—As regards the amendment of the Hon. Dr. Gooroo Das Banerjee, I dare say the majority of the Council are aware that the original Bill contained a provision for sanctioning expenditure on primary education. The reason was that we found that in the Suburbs such expenditure was actually being incurred, there being a grant of Rs. 3,000 for the purpose. We thought it would be invidious to deprive the Suburbs of what they had hitherto received, the intention being merely that their rights should be preserved to them, while at the same time it was foreseen that the words might be capable of extension to other primary schools. And after the fullest consideration I am constrained to say that so strong a case has been made out on behalf of primary education that I cannot go against this amendment. I myself feel bound, seeing the weight of precedent and reason adduced for it, to vote so far as to put in a provision allowing the municipality to provide for primary education and technical education.

Then I come to my hon. friend Sir Alfred Croft's amendment, and here I find myself in a position of very great difficulty, because on the one hand I look on the amendment with the greatest possible apprehension, on the other hand I am equally bound to say that he has made a very strong case indeed; but the stronger the case the stronger is my apprehension. I feel that the case made out is so strong that it will be very difficult for me to induce the Council to reject the amendment. I am equally bound to admit that, so far as the pro-

by the municipality, they would do most useful work quite within its province, for the municipality ought not to be indifferent to the development of artistic and industrial skill. Technical schools might in the same way be attached, with great advantage, to the municipal workshops, in order to increase the supply of skilled artisans. This is a crying want, and amply justifies the devotion of municipal funds to technical education. I may mention that in Bombay the municipality contributed Rs. 80,000 to the establishment of a Jubilee Technical Institute, and have made an annual provision of Rs. 5,000 for the same purpose. In Poona the municipality gave Rs. 5,000 to a technical school.

As to secondary education, throughout Bengal and India large sums are expended by the municipalities. In different parts of the mofussil it is felt that the municipalities contain members thoroughly qualified to control education of that kind. They have accepted and managed with the greatest success the secondary schools which have been transferred to them in pursuance of the Local Self-Government policy. This has been done to a very large extent in the mofussil municipalities of Madras, Bombay and the North-Western Provinces. In the great Presidency towns like Calcutta the case is no doubt different. Here private enterprise is so strong that it never will be necessary to spend any large sums on secondary education. At the same time it might very well happen that the Government, on retiring from one of its secondary schools, might make an offer to the municipality to take it over with its grant. If so, there seems no reason why the municipality should refuse to undertake the charge—a charge which would generally involve no additional burden on the municipal fund. Then again, suppose the municipality maintains good primary schools, such as those which are the credit and the pride of Bombay—primary schools attended by hundreds of poor children, who thus secure a far better and sounder education of an elementary kind than private effort can give them. If there are such schools, the municipality might perhaps desire to add secondary classes for the further education of advanced scholars, and if so, I do not think it is the business of this Council to refuse it that permission. It may be taken for granted that the permission will not be misused, as it has not been misused in other Presidency towns in India, where, though they spend large sums on primary education, the expenditure on secondary schools is trifling. In view of the position which the municipality of the ...lis of India has a right to claim, we may very well say—It is open to you

[*Sir Alfred Croft.*]

the requirements imposed on municipalities by the change to which I have referred. In Madras, for example, under instructions issued by the Madras Government, municipalities are expected and required to expend one-sixth of their total income on education.

So much for the general question; but I am bound to say that the particular case of Calcutta is in some respects an exceptional one. The sanitary requirements of Calcutta, it is said, are such that they will exhaust and swallow up the whole of the addition of three or four lakhs which is to be made to its revenues by the removal of the cost of the police. I do not know whether the terms upon which the Government makes over that grant to the municipality are such as to compel the money to be spent on sanitation alone, or whether, as in the case of every other municipality to which similar relief has been afforded, sanitation is only one of those objects, education being another. But however that may be, on the general question I cannot say that Calcutta stands in any different position from other large towns in India with regard to education. We have here in Calcutta 22,000 boys at schools of all classes, primary and secondary; but according to our estimate 22,000 is only about half the number of boys that should be at school. It follows that there are about 20,000 boys who get no education at all, not even the rudiments of education. To my mind it seems a matter beyond dispute that Calcutta, as a manufacturing and industrial town, would be the gainer by the education of these 20,000 boys—not merely in the way mentioned by the last speaker that they would be more amenable to sanitary influences, but that education will make them more intelligent citizens, and therefore more useful, and profitable to the town in which they live. That is the simple ground on which municipalities have thought it worth while to spend money on education.

All this of course refers to primary education. As to technical education, there is in or near Calcutta a School of Art and an Engineering College. The School of Art has, I believe, a great future before it in the development of artistic industries. The engineering college has established such a position and attained such success that the trained apprentices find no difficulty in getting profitable employment all over Bengal. But when boys go to one or other of these institutions they do not even know the rudiments of drawing. They have to learn it from the beginning, and to spend a long time in acquiring the as moderate amount of skill which they ought to have already acquire entering the school. It appears to me that if drawing classes were

elementary education of the poor, and to build school-houses in which such education may be given. In the Punjab, as in Bombay, the provision is not merely permissive, for the Local Government has power to fix the share of the municipal income which must be assigned for educational purposes. What I have stated is merely a sample of what is going on throughout India. It is true that in Bengal, and especially in Calcutta, the idea of municipalities taking an active share in education is a little strange to us; but I hope I have shown that throughout the rest of India the duty of municipalities to control education, and not merely primary education, is an accepted principle. I will now go on for four or five years, and show that outside Bengal, and even within Bengal, municipalities have within that period not stood still. I find that from 1881-82 to 1885-86, the municipal expenditure on education throughout India increased from Rs 4,66,000 to Rs. 11,40,000, of which Rs. 4,22,000 were devoted to secondary schools, and Rs. 4,86,000 to primary schools, Rs. 27,000 to special or technical education, Rs. 2,04,000 to inspection, school buildings, and other miscellaneous objects. In the Punjab, which stood at the head of all the provinces of India in 1881-82, the educational grant remained stationary, at about 1½ lakhs of rupees. Bombay advanced from Rs. 80,000 to Rs. 1,71,000, Madras from Rs. 88,000 to Rs. 1,75,000; while the municipal expenditure on education in Burmah advanced from Rs. 33,000 to Rs. 2,53,000—the reason being that in Burmah large grants had been made to municipalities to enable them to carry on the whole educational system within the municipal area. It was declared to be the duty of municipalities in Burmah to undertake the management of education within that area, and special sources of income were transferred to them to enable them to do so. Even in the mofussil municipalities of Bengal, the educational expenditure rose from Rs. 25,000 to Rs. 82,000. The remarkable expansion to which I have just referred is due in great measure to action taken about this time by the Government of India. In 1881-82 the Government of India decided to relieve municipalities of all charges on account of the police, and to transfer to them the control of certain services which were held to be more within their province, such as sanitation, education, and public works. The transfer of funds to these objects was accordingly carried out in every province of India, and that accounts in a large measure, though not entirely, for the increase of expenditure on education. In Bengal it was hoped that municipal expenditure on education would amount to Rs. 1,25,000. It has reached that figure, but in many other provinces it has gone far beyond

to education. But in general the Local Governments have, with one or two exceptions, expressed reluctance to compel these bodies, by executive order, to devote a certain minimum share of their income to education; and while they have not hesitated to express their wishes and expectations in the matter, they have for the most part been content to leave the municipalities concerned to fix the amount of their educational grants, in the full belief that the Boards would of their own motion make adequate provision for the maintenance of schools, and that a policy of compulsion was neither necessary nor desirable. But the general principle was fully accepted both by the Government of India and by the Secretary of State. The Government of India, in reviewing the report of the Education Commission, plainly stated that it was the duty of municipalities to provide for education. They said:—"Under all the Acts for settling the conditions of Local Self-Government in municipalities, provision more or less complete has been made for education;" and they went on to show that the Bengal Government anticipated a contribution of Rs. 1,25,000, for educational purposes from the municipalities of the province, excluding Calcutta.

Such then being the state of current opinion on the subject, it is important to show how far this general opinion, that municipalities should concern themselves with education, has been embodied in legislative enactments. In the District Municipal Act of Bombay I find, amongst the objects to which the municipal fund may be devoted, that adequate provision *must* be made, not *may* be made, for middle and primary schools, and that adequate provision *may* be made for higher schools. And then the Local Government takes power to define what an adequate provision is; and to ensure that the provision shall be adequate by declaring the minimum sum which municipalities are required to spend upon education. Then in Madras, district municipalities are required to provide for all primary and lower secondary schools within the municipal area. These are the provisions for district municipalities. Next I will take the Presidency towns. In Bombay, the Municipal Bill is still under consideration, and it is impossible to say what form the educational sections will take. I understand that they are not likely to depart far from the provisions of the existing Act. The Act of 1872, by which the Bombay Municipality is still governed, is not compulsory but permissive. It allows the municipal fund to be devoted to education of all grades, without any restriction to primary education; and again, in the town of Madras the municipality is required to

which sat in 1882-83 paid a great deal of attention. They took for granted—and in that assumption they were justified by the common practice of municipalities in India—that it is the business of municipalities to take charge of education. They said:—"The obvious advantage of connecting the education of the masses with local popular organisation has long been recognised" and they proceed to state the extent to which municipalities in India have recognised this principle. The figures they give are somewhat surprising. In 1882 the municipalities in the Punjab spent Rs. 1,51,000 on education; Madras spent Rs 88,000; Bombay Rs. 80,000; the North-Western Provinces Rs. 52,000; the Central Provinces Rs 35,000; while Bengal comes last with Rs. 25,000. Then, again, when we turn to percentages, we find that the Punjab municipalities expended 5·6 per cent. of their total income; Madras 3·8 per cent., and so on until we come down to the municipalities in Bengal, with less than half per cent. As regards Bengal, that proportion is confined to mofussil municipalities, because in Calcutta not one penny is spent on education. On this point the Education Commission remarked:—"In no other province of India do municipal bodies exhibit greater indifference to the claims of education upon the town funds. Even in the city of Calcutta no steps have been taken in this direction, though so far back as 1873 Sir George Campbell expressed a hope that the municipality in Calcutta would move the Legislature to permit the expenditure of some part of its large income upon primary schools for the children of the Calcutta poor." The Commission, I may add, went even further. Reviewing the progress of education in the past, they strongly recommended that the educational sections of the new Municipal Bills, then before the different Legislative Councils, should no longer be permissive, but compulsory. They said that executive orders of clear import and general application issued from 1854 to the present time had failed more or less in all provinces to ensure uniform attention to broad principles prescribed for general guidance; and they added:—"The evidence given before the Commission affords proof of the unanimous conviction entertained in all provinces of India, that the time has come when the exercise of these permissive powers can no longer be left to the discretion of municipal bodies." That view, however, has not generally commended itself to the local Legislatures. In more than one province it sp
ols is ue that under recent legislation the educational clauses of the Municipal Acts
unicipalities of India missive but compulsory; or else power is taken by the Local Govern-
i what proportion of the total municipal income should be devoted

for 1880, I find that, whereas two millions sterling were expended on highways, nearly four millions were spent on elementary education. I therefore submit that for the limited purpose of elementary and technical education the Calcutta Municipality ought to contribute something.

The HON. SIR ALFRED CROFT moved that after clause (11) of section 36 the following new clause be inserted :—

"(11). Maintenance, support and inspection of schools, including technical schools."

He said:—There is an important difference between the amendment which I have the honour to move and that which has just been moved. By my amendment the duty of the municipality is not limited to the provision of technical and primary education. It imposes no limit of that kind so far as schools are concerned, but allows the municipality to apply its funds to education whether primary or secondary, whether technical or general. It allows the municipality, first, to establish schools of its own; secondly to support schools, that is to say, to give grants-in-aid to the support of schools maintained by private individuals or by other public bodies; and lastly to inspect schools, where necessary. I do not propose to dwell on the general principles on which the duty of municipalities to provide for education may be defended, nor will I do more than just glance at the very pronounced view of the duties of municipalities in this respect which prevails in England and on the continent of Europe. I need not go so far afield as that. I shall find quite sufficient material for my remarks within the continent of India. The objections which have been raised to the inclusion of education amongst the objects on which municipal funds can be spent are, as far as I have been able to ascertain them, two. They are, first, that education is no concern of an Indian municipality; that if education is to be provided within a municipality it should be provided by the State or by associations or private persons; and the second ground is that in the particular case of Calcutta where the sanitary requirements of the people are so urgent, it would be unjust to divert any portion of the municipal funds from the objects for which they are so urgently required, to a purpose of less importance such as education. First, then, as to the general principle. When it is said that a municipality as such has no concern with education, that is to me so novel a view that I hope I may be pardoned if I occupy the time of the Council a little in order to show how exceptional that view is, and how much at variance with the common opinion and almost the universal practice in India. This is a point to which the Education Commission that

far as high education is concerned, but whether it is so or not it is not my object to discuss. It is a proposition which may be discussed on the amendment of the Hon. Sir Alfred Croft which is on the paper. I venture to think that ignorance and poverty are the main causes of those great sanitary evils which the municipal administration has to cope with, and that the best municipal arrangements from outside will fail to secure the desired object so long as the people are immersed in the depths of ignorance and poverty. You may improve bustees and have more efficient conservancy and other arrangements, but you will fail to restore the health of the inhabitants if they themselves are ignorant of the most elementary principles of sanitation. By spending a small part of the municipal funds for the promotion of technical education, we may help the children of the poor to enable them to learn useful occupations, and thus earn their livelihood; and by spending another small portion of those funds for the promotion of primary education, we may educate them just enough to enable them to read some of those excellent sanitary primers in the vernacular languages. Such expenditure is sure to prove remunerative in the sense that you would thereby secure from the people so educated an amount of willing obedience to your sanitary regulations which may perhaps enable you to dispense with a part of the establishment for enforcing those regulations. Nor is that all. We find in the Mofussil Municipal Act, III of 1884, section 69, clause 5, that the construction and repair of school-houses, and the establishment and maintenance of schools either wholly or by means of grants-in-aid, forms one of the purposes to which municipal funds may be appropriated; and if the municipalities in the mofussil can afford to expend money on such objects, there is no reason why the Metropolitan Municipality should grudge to do the same.

There is another point of view from which the matter may be considered. The Bill proposes to amalgamate a large part of the suburban area with the town. Now the Suburbs already enjoy this advantage. There are schools in the suburban area which already get grants from the suburban municipal funds, limited as they are; and now that these areas are to be amalgamated with the town, it will be disappointing expectations and disregarding vested interests if you suddenly deprive them of the aid they now receive.

I may also point out that in other countries, which we always do well to imitate, municipal funds are largely spent on education. From an abstract which I hold in my hand of the report of the Local Government Board in England

apart from the present state of the finances, the construction of hospitals is certainly work which is elsewhere only generally considered as a proper duty for a Municipality to undertake. The objection to the Hon. Dr. Mahendra Lal Sircar's amendment is that the Commissioners may be called upon to prove that a particular disease, if unchecked, would prove epidemic.

The clause as it stood in the Bill with the words "construction and" was then put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that in clause (11) of section 36 after the word "ceremony" the words "for illuminations, fireworks or the presentation of addresses" be inserted; and that the words "or entertainment in Calcutta" be omitted. He said:—My object is that the cost of "entertainments" should not be defrayed out of the Municipal Fund If it should at anytime become desirable to give a public entertainment, the Commissioners can always give it at their own expense. On some occasions, when the Commissioners were prepared to entertain certain eminent individuals at their own expense, the individuals proposed to be entertained objected. If such an entertainment is desirable on any occasion, there will be no difficulty to find the ways and means. But if such a provision be inserted in the Act, there will be frequent applications for such entertainments, and a good deal of money may be expended for purposes of this kind. On all public occasions, money has been contributed by the Municipality for illuminations and the like. Although there has been no distinct provision of law for that purpose, yet the Corporation, under the belief that no objection would be raised, has spent money for such purposes. Therefore, as far as such purposes are concerned, there will be no objection; but to carry it further will, in my opinion, be objectionable.

The motion was put to the vote and negatived.

The HON. DR. GOOROO DAS BANERJEE moved that after clause (11) of section 36 the following new clause be inserted:—

"(12). Promotion of primary and technical education"

He said:—Section 36 specifies several purposes to which the municipal fund may be appropriated, but one most important purpose has been altogether omitted, I mean education, and the object of this amendment has been to supply that omission. I know it may be said that education is an Imperial purpose, and that the expense for education ought to come out of Imperial and not from municipal funds. Perhaps that may be true as

[*Sir Henry Harrison; Dr. Mahendra Lal Sircar; Babu Kali Nath Mitter; Mr. Macaulay; Dr. Gooroo Das Banerjee; The President.*]

why this additional power should be conferred is because it is necessary on some occasions that hospitals should be provided for the treatment of small-pox and other contagious diseases. On such occasions it may become necessary to run up temporary hospitals for isolating those affected with the disease. That certainly has been done at Bombay; but we have not the power here to construct hospitals; we have only the power of maintenance. I think this is a flaw in the present Act, though I hope very much that the Commissioners will not be involved in any heavy expenses on account of construction.

The Hon. Dr. Mahendra Lal Sircar said:—For the reasons which have been mentioned by the hon. member in charge of the Bill, and to meet such occasions of emergency as have been referred to by him, I move by way of amendment that after the word "hospitals" the words "for contagious diseases which, if unchecked, might prove epidemic" be inserted. This will limit the power to a considerable extent.

The Hon. Babu Kali Nath Mitter accepted the amendment.

The Hon. Mr. Macaulay said:—Will the word "maintenance" cover the erection of additional buildings to hospitals? I do not think that the power of the Municipality should be restricted to hospitals for epidemic diseases and I object to the amendment as limiting the power of the Municipality with regard to what is very useful work.

The Hon. Sir Henry Harrison said:—I am bound to confess that if, for instance, the Medical College Hospital had not been built, and very heavy expenditure had to be incurred for the purpose of building a hospital, considerable pressure might be put upon the Commissioners to contribute to its construction; and I should be very sorry to see expenditure incurred on such account. At the same time I think it absolutely necessary that the Commissioners should have the power to construct temporary hospitals on emergencies.

The Hon. Dr. Gooroo Das Banerjee moved by way of amendment that after the word "construction" the words "in cases of emergency be inserted."

The Hon. Mr. Macaulay pointed out that in the Mofussil Municipal Act, III of 1884, the words used were "establishment and maintenance of hospitals." This is a power generally used throughout the Province.

His Honour the President said:—My own view certainly is that the section as it stands in the Bill should remain, and mainly for this reason, that,

[*Mr. Irving; Sir Henry Harrison; Babu Kali Nath Mitter.*]

The HON. MR IRVING said:—I think it desirable that the Commissioners should have power to grant or withhold leave of this kind. Suppose a Commissioner finds it necessary to go away shortly after the elections: he very probably would wish to keep his seat, and the Commissioners would surely grant the leave. If, however, the absence occurs close to the period of the elections, leave would hardly be necessary.

The HON. SIR HENRY HARRISON said:—Then I think the period of absence without leave should be very considerably reduced—say to two months. If Commissioners can obtain leave, then I think it desirable to require them to obtain leave for all prolonged absences, at any rate for three months.

The HON. BABU KALI NATH MITTER said:—I suppose the effect will be that during the time the leave extends the nominated Commissioner will be only a substitute, and when the Commissioner comes back he will take up his own place, and the nominated Commissioner will retire. So that instead of having an elected Commissioner, you would have the services of a nominated Commissioner for that time. If a Commissioner goes away for six months or twelve months, would it not be better to leave his successor to work till the end of the term instead of only during his absence? The gentleman who may be nominated would acquire experience, and by the time his experience becomes valuable, he will be superseded by the Commissioner who comes back. I do not think the amendment to be a desirable one.

The motion was put to the vote and negatived.

The HON. BABU KALI NATH MITTER moved that in clause (3) of section 36 the words "construction and" be omitted. He said:—The expenditure of funds for the construction of hospitals is a new power which it is proposed to give to the Commissioners. The power in itself is unobjectionable, but the question is whether the means at the disposal of the Commissioners will be such as to enable them to exercise it? This provision of the law may be thrown at their teeth, and it may be said that they are not performing their duty, inasmuch as they are not exercising this power. I submit that no necessity has arisen for adding this to the powers conferred by the existing law.

The HON. SIR HENRY HARRISON said:—I entirely sympathise with the main part of the hon. member's objection, that it is very undesirable that an additional charge should be thrown on the Corporation, looking to the work they will have to do in the newly amalgamated area. But the reason

[*Sir Henry Harrison; Mr. Irving; The President.*]

The HON. SIR HENRY HARRISON said:—I do not think that the provision contained in this section will work well. How is it to be known that a Commissioner will be absent for a period exceeding three months and not exceeding twelve months? In some cases a Commissioner may intend to be absent for only two months, but may stay away for a longer period; or he may intend to return in twelve months, but may be detained for twelve and a half months, and then as soon as the twelve months expire a fresh election must be made. Seeing that one-third of the Corporation will consist of nominated Commissioners, and two-thirds of elected Commissioners, I think there is some objection in principle to all vacancies caused by absence being filled up by the Local Government. There has hitherto been no serious practical inconvenience felt. Every now and then we have been working with one or two Commissioners less than the complete number, in consequence of absentee Commissioners electing not to resign because they expect to return within the six months. In such cases, if an absentee does not wish to resign, then for a period of six months one ward may be without one of its Commissioners, or there may be one less than the full number of nominated Commissioners; but I cannot say that the existing procedure has caused any practical inconvenience.

The HON. MR. IRVING said:—Many Europeans go away for six or eight months, and they may wish to take leave of this kind. If the next general elections are near at hand the leave would very likely not be asked for, but if the Commissioners have the power of granting leave when it might easily be given, it would be a convenience, more especially for European Commissioners.

The HON. SIR HENRY HARRISON said:—I think the amendment cannot be substituted for the clause in the Bill, which is a disqualifying clause. It may, however, be substituted for the specific clause which provides that no Commissioner shall be disqualified by reason of his being absent for a certain period.

HIS HONOUR THE PRESIDENT said:—I see a difficulty in accepting the amendment as it stands, though I do not see much objection to its principle. The amendment gives the Commissioners power to grant leave or not as they choose. If they do not want a nominated Commissioner, they will not grant the leave, and they will have it in their power to prevent the Local Government from nominating a *locum tenens*. The difficulty consists in there being no alternative in cases where the Commissioners refuse to grant leave.

which I propose will necessitate applications being sent in a good deal earlier. For these reasons I think it will be better that companies, firms and associations of persons should be bound to apply earlier, in order that the revised list may, as far as possible, be correct.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that in line 8 of section 27, for the words "officers in all cases made over to them" the words "officer in all cases made over to him" be substituted. He said:—This is a verbal amendment, and the reason for it is that it is more probable that the duty referred to will be entrusted to a single officer, and at any rate the singular will include the plural.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that in line 1 of section 31, for the words "the election" the words "general elections" be substituted. He said:—This also is a verbal amendment, similar to one which has already been made on my motion.

The motion was put to the vote and carried.

The HON. MR. IRVING moved that for the second paragraph of clause (*c*) of section 32 the following be substituted:—

"In the event of a Commissioner being absent on leave, to be granted by the Commissioners, for a period exceeding three months, and not exceeding twelve months, the Local Government may appoint a substitute to serve in his absence."

He said:—It appears to me that this amendment is a very reasonable one, while at the same time it is urgently required in the interests of Europeans. The present arrangement is defective, owing to the fact that a constituency may often remain unrepresented for a considerable period during the absence of a Commissioner from the country. In such cases, where the temporary vacancies are not filled up, the continuity of representation could only be secured at the cost of a fresh election. As an illustration of the present arrangement, I may mention that in Ward No. 12 not long ago an elected member, owing to missing his steamer, was absent for six and a half months; during his absence the ward was deprived of his representation, and because he was absent a few days over the prescribed period, a fresh election had to be held entailing both trouble and expense. It is to guard against such a state of things that I propose this amendment.

[*Babu Kali Nath Mitter; The President; Sir Henry Harrison; Mr. Irving.*]

The HON. BABU KALI NATH MITTER said:—I do not think this amendment necessary. It will only have the effect of deterring persons from applying for these lists. It is very necessary that candidates for election should have free access to these lists, but if a fee is imposed it will deter some from applying for them. Hitherto no fee has been imposed.

HIS HONOUR THE PRESIDENT said:—The section requires that the lists shall be published, but if a copy of the list is wanted, I understand the object of the amendment is that it should be paid for.

The HON. SIR HENRY HARRISON said:—Hitherto the practice has been to print these lists and copies of them have been given without any charge to those who apply for them.

The HON. MR. IRVING said:—There might be a very wide and unnecessary call for copies of these lists, and the imposition of a small fee would prevent this. The proposal is that the fee should not exceed 8 annas: it might be 1, 2, or 4 annas.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that in line 8 of the proviso of section 21, for the word "show" the words "satisfy the Chairman" be substituted. He said:—The difficulty involved by the introduction of the word "show" has been pointed out in the office. The word "show" is ambiguous, and it is considered better to state more clearly what is meant. What is meant is that the person shall produce some *primâ facie* evidence to show that he has paid occupancy rates. This is generally done by the production of rate bills. I think the substitution of the words "satisfy the Chairman" for "show" will be an improvement.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that in lines 6 and 7 of section 25, for the words "not less than five days before the date of election" the words "not less than five days before the date fixed for the publication of the revised list" be substituted. He said:—This is more than a verbal amendment. It was at first intended that the application under this section should be made five days before the elections, but it has been pointed out by those experienced in working the elections that it would be a great convenience if the bulk of the objections could be got rid of before the publication of the revised list, so that the revised list may, as nearly as possible, correspond with the actual voters. The amendment

[*Sir Henry Harrison; Mr. Irving.*]

The HON. SIR HENRY HARRISON moved that for the second paragraph of section 19 the following be substituted :—

"All subsequent general elections shall be held at intervals of three years, and shall take effect from the 1st April in the calendar year in which they are so held."

He said :—The object of the amendment is simply to put in the words "general elections" for "elections." As was pointed out by the Commissioner of the Presidency Division, the word "elections" might include "bye-elections." By putting in the words "calendar year," the 1st of April must be held to mean 1st of April 11 months before the general elections.

The motion was put to the vote and carried.

The HON. MR. IRVING moved that in the proviso of section 19, for the word "fifty" the words "two hundred" be substituted. He said :—For the offence of personation, I think a heavier penalty than Rs. 50 ought to be imposed, and therefore I move that the maximum limit of penalty under the Rules be fixed at Rs. 200. In England the offence of personation is made a misdemeanour. It is true that, when the breach of any rule constitutes a serious offence, the offence might be dealt with under the Penal Code; but I think it is desirable to make an Act complete in itself, especially such an Act as this.

The HON. SIR HENRY HARRISON said :—I have no views one way or the other as to this amendment. The majority of offences under these rules would be of a comparatively trifling character. In the event of any body committing a criminal offence, we shall always have the criminal law to fall back upon. If, however, the Council think it better to raise the penalty to Rs. 200, I have no objection.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that in the last line of section 20, for the words "an election" the words "each general election" be substituted. He said :—This is a mere verbal amendment with the object of excluding bye-elections.

The motion was put to the vote and carried.

The HON. MR. IRVING moved that at the end of section 20, and at the end of the second paragraph of section 23, respectively, the words "and such list shall be obtainable on payment of a fee not exceeding eight annas" be inserted. He said :—It will be to the interest of all classes that these lists should be readily obtainable; on the other hand it may be advisable to check a too wide application for copies, by the imposition of a small fee.

other date specified. There will be no difficulty if the Council will declare whether they prefer that the Act should be worked by the joint body as was intended when the Bill was framed, or whether they prefer that the elections shall take place before the Act comes into force. That is the point which the Council has to decide in making up its mind on this amendment.

His Honour the President said:—My own idea would be that for the convenience of working it will be better to fix by law, or to allow the Local Government to fix by notification, that from the beginning of the official year next following this the new Municipal Act is to come into force, and to go through the first elections within three months previously to that time. That would be in January or February next. I think the difficulty which the hon. mover of the amendment has pointed out is a real one, and I know not what further difficulties might crop up if the Act is to come into force now, but to be worked by the Town Corporation jointly with the Commissioners of the portions of the Suburbs which will be amalgamated, and with two separate establishments. This is merely my own idea, and I do not do more than ask the Council to consider it. The question is which of the two proposals the Council prefers. I shall be glad to accept whichever procedure is preferred.

The Hon. Babu Kali Nath Mitter said:—As far as my experience goes I think it will be better to accept the suggestion of His Honour the President. It would be a better course than to have the affairs of the Municipality carried out by two separate bodies with separate establishments. It would be better for the Act to come into operation on a certain day, and to have the elections three months earlier. There would then be no difficulty in working the Act when it comes into force.

The Hon. Mr. Macaulay said:—I do not think we can allow section 19 to remain only with the first clause without any reference to the nominations as well as to the elections. The second clause refers to those elected and appointed. This, however, can be settled when we come to deal with section 1 of the Act.

The Hon. Sir Henry Harrison pointed out that the word "election" throughout the Act included the appointment of both elected and nominated Commissioners.

The motion was put to the vote and carried.

number of the Commissioners, but there may be considerable difficulty in working Committees, especially the Town Council. This body now consists of 30 Commissioners, being one Commissioner for each ward and a due proportion of nominated Commissioners. The Commissioners who might be then members of the Town Council would naturally wish to remain in it, and it would be difficult to reduce it below that number. Then again representation must be given to the Suburban Commissioners, and it would be difficult to resist the pressure of individual members to have a Town Council of something like 40 Commissioners, and that would be a very formidable Committee indeed; so that probably there would be some inconvenience in working the Corporation with the joint bodies. The inconvenience arising from the other procedure is, I think, on the whole not so serious. It is mainly this, that we should have to conduct the elections from the Town without having that control over all the registers and statistics which a certain period of working would give us. I have very little doubt that the Suburban Commissioners will give us sufficient assistance as far as the owners and occupiers are concerned who are qualified to vote, and with regard to those who hold licenses we ourselves have the requisite information. But there is one class of electors who will not be able to vote at the first elections in that case, viz., those who pay Rs. 24 in the year, for the reason that the voters who will be able to obtain that qualification are chiefly the lower grades of the trades and professions tax payers who will not be in existence in the Suburbs; and therefore a certain appreciable number of residents in the Suburbs, who would have got a vote if the Act had been in force for a year, will not be able to vote at the first elections, and consequently it may be made a matter of complaint that the constituency which elects the first body of Suburban Commissioners will be somewhat smaller than if the Act had been in force for a year. It is just possible that not having the same familiarity with the Suburban as with the Town wards our machinery will not work as smoothly as regards the Suburban elections as I hope it will with regard to the Town. I beg the Council to consider which of these two alternatives they prefer. If they prefer that the Commissioners should be elected before the new Act is worked, then they should adopt the amendment. In that case nothing more will be needed than in the first section of the Bill to enact that sections 7—34 of the Bill are for the purposes of the election to come into force on a date either to be fixed in the Act or on a date to be fixed by the Local Government, and that the rest of the Act shall come into operation on some

of view this amendment has no object now: but it serves another purpose, and that is this. If this portion of section 19 is left out, some other provision would have to be made for the carrying on of the work of the Corporation between the time of the passing of this Bill into law and the time when the first elections pursuant to its provisions take place. As the provision stands, it authorises the Commissioners, who are in office at the date of the passing of this Bill into law, to continue in office and to carry on municipal work until the new elections take effect. But there are inconveniences in this, one of which I shall notice. Certain portions of the Suburbs will be amalgamated with the Town. These portions have their elected Commissioners, some of whom may reside within the limits of the new Town, others may not. The section says that "this Act shall be read as if the Commissioners elected for those parts of the Suburbs of Calcutta which correspond with Wards 19, 20, 21, 22, 23, 24 and 25, as defined in this Act, and the Commissioners for the Suburbs of Calcutta nominated by Government and resident in Calcutta, were duly appointed and elected under this Act." So that some of the Commissioners for the Suburbs would be in office, while others would not be in office by reason of not being resident within the limits of the new Town. That is an inconvenience which would be avoided by omitting this portion of the section.

The Hon. Sir Henry Harrison said:—The amendment of the hon. member is one which raises a point of considerable importance, and one which deserves the best consideration of the Council, because it will closely affect the working of the new Corporation in its initial stage. When section 19 was originally drafted, the hope was entertained that the Act might come into force from the beginning of the next year; and it was deliberately intended that the old Commissioners should work for nearly a year before the new elections took place in order that the difficulties of adjusting the new arrangements might fall into experienced hands, and it was with that object the last portion of this section was framed. But in the meantime the date of the Act coming into force has been thrown back a whole year. This provision of the Bill assumes that the Act would be in force considerably before 31st March. Therefore the question is, do the Council wish to have the new Corporation elected before the Act comes into force, or the Act to come into force first and to be worked for some time by the old body of Commissioners? There are some inconveniences in both proposals: but I think the inconveniences of working with the old body predominate. I do not anticipate any great difficulty from the

requires that votes at all elections shall be given personally at the polling stations. That being so, unless the elections are held on a public holiday, it will place at a disadvantage a certain large and important class of voters—I mean the educated middle classes, whose occupation is for the most part service. Voters of this class always exercise their privilege of voting with honest independence and discrimination, and they contribute in no small measure to raising the tone of the elections and to the success of the elective system. It is but right, therefore, that their case should deserve some consideration, and the difficulty would be sufficiently met by holding the elections on some public holiday. There are no less than three public holidays about the time that these elections would be held, viz., New Year's Day, Sri Panchami, and Dole Jatra, and any one of these might be selected; or a special holiday might be given for the purpose.

His Honour the President said:—I see no objection in substance to the motion before the Council, but I should like to know the effect of giving a special holiday. Would that necessarily mean that the Public Treasury and Banks would be closed, or merely public offices? If it is not intended to be a public holiday under the Negotiable Instruments Act, I have no objection.

The Hon. Mr. Macaulay said:—The hon. member forgets that, when the elections under the Bengal Municipalities Act were held, all public offices and courts under the control of the Local Government were closed by executive order. No public holiday was, however, declared under the Negotiable Instruments Act, as the effect would have been to stop the currency of bills of exchange.

The Hon. Dr. Gooroo Das Banerjee said:—I have no objection to withdraw the amendment, as I understand that a public holiday in its more limited sense will be granted as far as the Local Government is concerned.

The motion was accordingly by leave withdrawn.

The Hon. Dr. Gooroo Das Banerjee moved that from the first paragraph of section 19 the portion beginning with the words "until such election shall take effect" to the end of the paragraph be omitted. He said:—The object I had in view when I gave notice of this amendment was to make this section of the Bill consistent with the other provisions of the Bill in the event of the first amendment, of which I gave notice, viz., that no portion of the Suburbs be amalgamated with the Town, being carried. From that point

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 18th February, 1888, at 11 A.M.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The HON. G. C. PAUL, C.I.E., Advocate-General of Bengal.
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON, KT.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. G. IRVING.
The HON. BABU KALI NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.
The HON. C. H. MOORE.
The HON. DR. GOOROO DAS BANERJEE.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

THE HON. SIR HENRY HARRISON moved that the clauses of Chapter II, Part I, of the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The HON. DR. GOOROO DAS BANERJEE moved that in line 3 of section 19, after the words "year 1888-89" the words "on some day, being a public holiday" be inserted. He said:—The object of this amendment is shortly this. The Bill

which the section was worded before, the High Court being also situated in this ward, representation was given not only to those who live in the ward or have large business houses and pay rates in it, but also to the barristers, attornies, and vakeels of the High Court, because they take out licenses of Rs. 50 annually and practice their profession in the Small Cause Court or the High Court. It will be quite sufficient to indicate the necessity of this section if I say that in the four elections since 1876, nine out of the twelve members elected in this the chief business ward of the town have been pleaders or attornies. I hardly think it necessary to put the facts stronger than to say that the residents of the ward could not do more than secure one member against the vote of the legal element. If it is in the new Corporation the wish of the Council that Ward No 12 should be represented by one legal member and one resident member, then this amendment ought to be passed; but if they think that the residents of the ward have a right to elect their own representatives, then I think the section as it stands is perfectly correct.

The motion was put to the vote and negatived.

The HON. MR. IRVING said:—I have the honour to move that for section 1°. the following be substituted:—

"Whenever an equal number of votes is given to two or more candidates at any election under this Act, the candidate for whom the greatest number of rate-payers have voted shall be held to be elected; and in case of an equality of votes in this respect, the Chairman shall give a casting vote, and the candidate to whom such vote is given shall be held to be elected."

It will, I think, be admitted that it is desirable to relieve the Chairman as far as possible from the often invidious and unpleasant task of giving a casting vote in order to decide the election of a candidate. The custom of England is, I understand, to elect the candidate for whom the greatest number of rate-payers have voted in case of an absolute equality of votes. In the highly improbable contingency of a dead-heat also occurring in the number of rate-payers voting for two candidates, the Chairman might then be called upon to give his casting vote.

The HON. SIR HENRY HARRISON said:—I am willing to accept this amendment, but its importance is not great, because the Chairman of the Corporation has never yet had to give a casting vote. In France, when such a case occurs, the elder of the candidates is selected; in Bombay they cast lots. I understand the meaning of the amendment to be this, that if each candidate has 1,500 votes,

[*Babu Kali Nath Mitter; The Advocate-General; Sir Henry Harrison.*]

vote at all; whereas if they are allowed to vote in the ward in which they carry on business, they will then be able to vote. I am told by the hon. member in charge of the Bill that residence in the town is meant, but the hon. and learned Advocate-General will no doubt tell the Council that there is a decision on the point. The question came up under the provisions of the Bankruptcy Law where the term used was "residing." A person living on the other side of Circular Road applied for the benefit of the Act, and the High Court held that carrying on business in Calcutta was sufficient residence to bring him within that section. And yet an amendment was thrown out the other day which provided that a person who carried on business in the town would be entitled to vote. It seems to me only right and proper not to deprive these persons of their right to vote.

The Hon. the Advocate-General said:—The meaning of the expression "carrying on business," according to all the decisions, is that the person should have his place of business and pay rates. Section 8 allows him to do that, and it comes within the rule. But I never heard that a man is held to be resident in a place if he has not a place in respect of which he pays rates and taxes. The meaning of the term "resident" in section 8 is that they should be bodily or generally resident; and section 9 provides that "a person qualified under clause (*d*) shall vote in the ward in which his place of business is situated, otherwise in the place in which he resides." But we are now asked to introduce a third condition of voting, viz., that a person who has no place of business for which he pays taxes, but has an ambulatory business and is not resident in the town, should still be entitled to vote. With regard to what fell from my hon. friend Babu Kali Nath Mitter; I find it stated in Maxwell on Statutes that "in general a place of business will not be regarded as the place of voting."

The Hon. Sir Henry Harrison said:—If this amendment is carried, the elections might be swamped even by clerks who come daily into town for the purpose of attending the public office in Ward No 12. The object of this section has been correctly stated by my hon. friend Babu Kali Nath Mitter, that the residents of Ward No. 12 may be able to elect the members of Ward No. 12. It is one of the wealthiest wards in the town. Wards 12 and 5 pay on the whole the largest amount of taxation. Ward No. 12, in which this Council Chamber is situated, is the ward in which the business of European firms is carried on more than in any other part of the town; therefore it is the part of the town in which European business ought to find its representatives. But owing to the way in

permanence or more importance, he would select that as the ward in which he would vote. There are other instances in which the reverse may be the case and the voter may prefer to vote in the ward in which he has his place of business. But in either case he is the best person to decide the affairs of which ward interest him most, and therefore he ought to have the right to choose the ward in which he will vote, instead of the Act fixing the ward for him. My amendment leaves him that option to the fullest extent, whereas the clause of the Bill does not. Therefore I submit that the amendment meets the requirements of the case better than the provision in the Bill.

The HON. BABU KALI NATH MITTER said:—The Bill, as originally passed by the Select Committee, contained this clause:—"A person qualified under clause (*d*) shall vote in the ward in which the person exercises his calling or carries on the business in respect of which the license is taken out." My hon. friend, the mover of the amendment, wants to extend that principle, and leave an option to the person as to whether he will vote in the ward in which he lives, or in the ward in which he carries on his business. That is a further extension of my own amendment, and I support it. But the real object of the amendment is this, that, if the proposal of the Select Committee is carried, a very large number of persons carrying on business in Ward No. 12 will not be able to vote in that ward. The whole of the barristers, pleaders, and attornies, who at present can vote in that ward, will be precluded from voting if this provision of the Bill is not altered. I think they are persons eminently qualified to select their representative, and I do not see why they should be deprived of the right of selection. In the report of the Select Committee, it is pointed out that in Ward No. 12 the resident voters suffer, because these outsiders elect one or two members by their numbers. As the Bill provides that each ward should return only two members, the resident members will return one, and probably the barristers, pleaders and attornies the other. A great deal of importance has been attached to the residential voters, but after the provision which has been passed by the Council allowing the Calcutta Trades' Association to elect four members, they will be persons who will be most interested in Ward No. 12, and they will have another member elected under the general clause. I do not see why it is necessary to deprive this non-residential class of the right of voting in this ward for the benefit of the residential voters. If you do so, you will deprive a large number from voting at all. Suppose four persons living in Howrah carry on business in Calcutta; they will, under the Bill, have no

which may be carried out has a permanent effect on the property of one man, but only a temporary effect as far as the other is concerned. From this point of view also, I submit that this amendment should not be supported.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON moved that for the first paragraph of section 10, the following be substituted—

"A person qualified to vote under clause (*b*) of section 8 may give two votes in each ward in which he is entitled to vote, or one vote if only one Commissioner is to be elected for that ward; as well as additional votes according to the following scale:—"

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that for the first paragraph of section 11, the following be substituted:—

"A person qualified to vote under clause (*c*) of section 8 may give two votes in each ward in which he is entitled to vote, or one vote if only one Commissioner is to be elected for that ward; as well as additional votes according to the following scale:—"

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that for the first paragraph of section 12, the following be substituted:—

"A person qualified to vote under clause (*d*) of section 8 may, if he holds a license under Class IV of the third schedule, give two votes, or one vote if only one Commissioner is to be elected for the ward in which he may be entitled to vote under this qualification; if he holds a license under Class III, one additional vote; if under Class II, two additional votes; if under Class I, three additional votes."

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that in line 2 of section 13, after the word "includes" the words "a Hindu joint family" be inserted; and that in line 3, after the word "or" the word "other" be inserted.

The motion was put to the vote and carried.

The HON. DR. GOOROO DAS BANERJEE moved that for the fourth paragraph of section 9, the following be substituted:—

"A person qualified under clause (*d*) of section 8 shall vote in the ward in which his place of business is situated, or in the ward in which he resides."

The object of this amendment is shortly this. A rate-payer possessing the necessary qualification by reason of his paying a license fee in respect of his business may reside in one ward, and have his place of business in another. Presumably, he is interested in the welfare of both the wards, and ought to be allowed to vote in either. Where his place of residence has more

principle of the plural vote, but I do not think it is a contradiction of it. Assuming that greater taxation should be recognised as a ground for higher representation, the argument comes nearly to this, that a person who pays the higher taxation is on the average more intelligent and understands municipal wants better than persons who pay a lower rate of taxation. Although it may be sometimes true that the occupier of a house of Rs. 5,000 may not be richer than the owner of that house, if the owner has ten such houses he will get votes for each such house in other wards. My own views are very divided as regards the amendment. I am satisfied with the Bill as it stands, and I do not think the owner will have any undue weight under it. In the Parliamentary Select Committee already referred to their efforts were entirely in the other direction; their fear was that the occupiers would outvote the owners; and they proposed as a distinct recommendation that the owners should vote separately from the occupiers and should have separate members. I have no objection to see my hon. friend Sir Alfred Croft's amendment adopted; but I regard it as a new development of the principle adopted by the Bill.

The HON. DR. GOOROO DAS BANERJEE said:—I will add my feeble voice to the forcible opposition of the hon. the Advocate-General against this somewhat strange and startling amendment. One could understand the principle that wealth contributed to the Municipality might be made the basis of representation. But that is not the amendment before the Council, and we find not wealth contributed by the voter, but wealth possessed by him proposed as the basis of representation. Such a proposition nobody has yet heard of. It has been said that a man who pays a rent of Rs. 600 for a house is a richer man presumably than the man who owns the house. That may or may not be the case. The question was not whether a man was richer, but whether he contributed more to the Municipality. The hon. mover of the amendment has not been able to assert that the man who pays Rs. 600 as house-rent is necessarily more intelligent. Wealth may vary with the rates levied, but intelligence does not so vary. It may be that a man who pays Rs. 600 house-rent may have larger concerns to carry on, and for that purpose a greater interest in the affairs of the Municipality, but the hon. mover of the amendment forgets what is very evident, that a man who owns a house has a more abiding interest than the sojourner who comes here for the exercise of his profession, or his calling, and then leaves the country. Any municipal improvement

on the fact that under the Municipal Act the owner and the occupier pay rates equally, and therefore are presumed to have an equal stake in the town. Still, even that I would not accept without some reservation; because it appears to me that the business done by the occupier of a house such as the Great Eastern Hotel, and the transactions that he carries on in respect of such occupation, are very much larger and more varied than those with which the owner of the house as such is concerned. I do not deny the force of those considerations, but I should still wish to submit the point to the decision of the Council.

The HON. THE ADVOCATE-GENERAL said:—I am very much surprised at this amendment, which seems to me to rest upon a principle unsound and unsubstantial. I understood the hon. member in charge of the Bill to say that the extension of the principle of plural voting arose from this, that it had hitherto been the practice to give additional votes in certain cases according to the amount of taxes paid by rate-payers, and on that the principle of regulating votes according to the amount of taxes paid recommended itself as a sound one. This Bill contains a provision that a consolidated amount of taxes is to be divided between the owner and occupier. Starting from that point of view, it is obvious that the occupier who occupies a house of the annual value of Rs. 600 should have the same number of votes as the owner of that house. The principle underlying plural votes, as disclosed by the Bill and maintained by the mover, is in direct conflict with the principle (if any) on which the amendment is rested. A strange proposition has been enunciated. The hon. mover of the amendment contends that a man who pays Rs. 600 annually for the house he occupies in this town must be necessarily considerably wealthier than the man who owns that house. I am not prepared to admit that proposition. I know a number of men who occupy houses at Rs. 800 per month or more who do not possess half the wealth of the owners of such houses, and it is only in regard to a house in which the occupier dwells the hon. member's contention can be supposed to make an approach to the startling proposition he desires to maintain; the moment it is assumed that the house occupied is used as a shop, boarding-house, or for any other purpose of trade, the asserted proposition falls to the ground. It is needless to say more on this subject, as it must be apparent the more the matter is probed the weaker it will become.

The HON. SIR HENRY HARRISON said:—The Hon Sir Alfred Croft's proposal is, as the learned Advocate-General has pointed out, an extension of the

[*Babu Kali Nath Mitter; Sir Alfred Croft.*]

members of joint undivided families, who paid rates amounting to Rs. 25 per head, were entitled to vote. If that is a ground of complaint let it be removed; but it does seem to me that neither that complaint, nor the complaint that rich and influential persons will not go to the polling stations, are such as to justify our adopting plurality of votes.

The Motion being put, the Council divided:—

Ayes 4.	*Noes* 9.
The Hon. Dr. Goorco Das Banerjee.	The Hon. C. H. Moore.
The Hon. Dr. Mahendra Lal Sircar.	The Hon G. Irving.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The HON. SIR ALFRED CROFT said:—With the permission of the Council I beg to move the following amendment:—

"That in the second clause of section 10, for the figures '600, 1,000, 1,500, 2,000, 2,500 3,000, 3,500, 4,000, 4,500, and 5,000,' the figures '1,000, 2,000, 3,000, 4,000, 5,000, 7,500 10,000, 15,000, 25,000, and 50,000' respectively be substituted."

I will not detain the Council with more than a very few words in support of this amendment, because I have already stated the grounds upon which the principle involved in it is, in my opinion, reasonable and fair. There are only one or two points I wish to notice. It will be observed that instead of a simple multiple of four, which I suggested a few minutes ago, a sliding scale, ranging from Rs. 1,000 to Rs. 50,000, has been substituted. Next, it has been pointed out to me that there are two arguments which may be used against my proposition, and which certainly escaped me when I submitted it to the Council just now. The first is that the principle of equal electoral power in respect of ownership and occupation has already been accepted in section 8, under which the owner and occupier alike have each one vote if the property in respect of which the vote is given is of the value of Rs. 300 a year. That no doubt is a fair argument against the proposal; but I conceive that the practical importance of it is but small, and that the real importance of this principle comes in when the higher values are reached. The second argument is based

to be relieved from the payment of rates if they would give up the privilege of voting, it is not very difficult to conceive what the answer would be. Therefore we must not be staggered with that argument; it has no bearing on the matter, and it does not in the least help my hon. friend. I would ask whether the Hindus, as a body, would lose by this provision. I say they would not, and yet they unanimously object to it. Therefore my objection to this principle becomes very forcible, because it comes from a quarter which is likely not to be affected by it. My hon. friend says, if the Hindus will not lose by it, why then all this agitation? They object to it on the ground that it is a retrograde movement altogether. Then my hon. friend also points out that no notice was taken of the argument advanced by him on various occasions in support of this principle, that rich and influential people will much sooner go to the polling stations, if they had a number of votes to give and could thus largely influence the return, than if they had only a single vote, like any ordinary rate-payer. If that is so, then the remedy is this, that instead of compelling persons to go to the polling stations, the present practice of voting by means of voting papers should be maintained—it would be a mistake to raise the importance of any particular class of the community, simply because it is anticipated that persons representing it will not otherwise go to the poll. In the same way, to meet the objection of the Calcutta Trades' Association you should disallow all plurality of votes, and not give plurality of votes to all classes. My hon. colleague must have noticed one of the amendments on the notice paper (No. 18), which runs thus—that "in the case of joint-owners the principal member shall be entitled to vote, and in the case of joint-occupiers the one who pays the largest share of rates, or in whose name the rates are paid. Should there be any dispute as to the person who would be entitled to vote amongst the joint-owners or joint-occupiers, the Chairman shall decide between the contending parties." From which it will be seen that I anticipated this objection, and am prepared to make this sacrifice on behalf of the rate-payers, by treating the large owners in the same way as other voters, though it should not be forgotten that in the case of elections of members of the House of Commons plurality of votes is allowed to persons having property in different districts. It is on this ground that plurality of votes is allowed under the present Municipal Act. As to allowing plurality of votes to joint-owners and occupiers in coming to construe the law, it was considered that as it enacted that whoever paid on his own behalf rates to the amount of Rs. 25,

this merely by way of indication of what I mean, without binding myself for the moment to any particular scale. But assuming the scale I have named, the result would be that one additional vote, which in the case of an occupier would be given by the occupation of a house rated at Rs. 600, would in the case of an owner be given by the ownership of a house rated at Rs. 2,400.

The HON. BABU KALI NATH MITTER said:—As the arguments for and against the principle of plural voting have been fully laid before the Council, I shall be as brief as possible in my reply. With reference to the complaint of the hon. member in charge of the Bill that this objection was not taken at an early stage, the answer is very clear, namely, that what the Select Committee at first did was to put into the law the existing state of things, and therefore nobody took any exception to it. If the hon. member thought the existing state of the law objectionable, it was his place to have taken the objection. Instead of that, he himself proposed what was first introduced, and it was adopted. There is this difference between what was then adopted and what is now proposed; whereas in the one case individuals had votes, in the other case the vote is given to property. That is the principal difference between the two cases, and the difference is of such importance that one must be struck at it. It is said that the members of joint Hindu families have hitherto exercised the right of plural voting. But in what way? They have to show that each of the members of the family pays a sufficient amount of rates to entitle him to vote: when they establish that fact, they are allowed to vote. But is the case precisely the same now? No; now the head of a family who pays large rates, instead of exercising a single vote, would have 10 or 12 votes; and therefore the difference is very great in principle. We are not legislating for parishes and unions, but for the metropolis of India, and therefore we should follow the principle adopted in large English towns, and not the principle followed in parochial elections. But my hon. friend prefers to follow the precedent of the small elections in parishes and unions, which are nothing more than a certain number of parishes added together. My hon. friend, as a sort of threat, asked whether owners are prepared to be dealt with precisely in the same way as the law deals with them in England, but he forgets one important thing, namely, that in England owners have not to pay rates. There owners do not pay rates, and therefore they do not vote. Here you make the owner pay rates, and yet you ask whether he is prepared to be dealt with in the same way as under the English practice. If the offer were made to owners

[*Sir Alfred Croft.*]

The HON. SIR ALFRED CROFT said:—The hon. member who has just sat down suggested in the beginning of his speech a means of escape from what I felt to be a position of considerable difficulty. He suggested that those in favour of the principle of plural voting should vote against the present amendment, but should afterwards propose any modification as to details which they thought desirable. I may state at once that I am in favour of the principle of plural voting for reasons with which, after the speech of the last speaker, I will not trouble the Council. I agree, as I said on a previous occasion, that the principle which should govern the electoral qualification is the having a pecuniary stake in the town, and the greater the stake the higher the qualification; but that is just the reason why the provisions of sections 10 and 11, when compared with one another, seems to me to be inequitable. The scales in these two sections, for owner and for occupier, respectively, are precisely the same, but because they are the same, they produce an inequality of a serious character. The difference between that stake in the town which the owner has and which the occupier has, in respect of property of the same value, seems to me to be very great; and I cannot avoid the conclusion that by those two sections the owner of property gets far more than his position entitles him to. To narrow the point, I will compare one additional vote given in section 10 on an annual rating of Rs. 600, with one additional vote given in section 11 on the same rating. Is it possible to say that the owner of a house rated at Rs. 600 is a person of the same wealth and position as the occupier of the same house? It seems to me that the occupier is in a far higher position. All we know about the two men is that one is the owner and the other the occupier. Therefore, so far as the terms of the section go, the owner has an income of Rs. 600 only, while the occupier must have an income of a great deal more, because he pays Rs. 600 for the mere rent of his house. In England it is commonly estimated that the rent a man pays for his house should be 10 per cent. of his income. In India it is probably higher; and if we put it at one-fourth or one-fifth, it will perhaps be nearer the point. On the principle to which I refer, the occupier of such a house would seem to occupy a position equivalent to that of the owner of a house rented at Rs. 2,400 or Rs. 3,000. I would therefore ask leave, while accepting the basis upon which section 10 is framed, to propose a modification of it, viz., that the left-hand column of section 10 should be multiplied by four throughout, so as to increase the ownership qualification. I suggest

principle and one quite in unison with Hindu ideas and feelings. Outside of the many Associations with which Calcutta is blessed, I saw several native gentlemen of education and position, and explained to them the principle of plural votes. They felt surprised that any possible objection could be made to it."

The letter then contains a suggestion which I need not take up your time by reading I read this letter not so much on account of the weight due to the writer's opinion, but on account of the clear and forcible manner in which he has explained the principle which I am anxious to introduce into the representation of this town. We cannot raise the elective franchise without disfranchising a great many persons who now exercise it. We have gone low enough, but do not go lower still. But we endeavour to reclaim their fair and legitimate influence to the more wealthy persons and those who pay a larger share of taxation by the system of plural voting. It is all very well to say that as the lower classes have no votes you must maintain the principle of one-man-one-vote as a kind of averse counterpoise. I protest altogether against putting the whole power into the hands of the middle classes as we find them in Calcutta. Poor men of light and learning are by no means the representatives of gharrymen and hackney carriage owners, of petty shopkeepers and men of the labouring classes. I therefore strongly press the plural vote on your acceptance, for what I am sure is the very reason that the Hindu Associations oppose it, viz., that it asserts the principle that Calcutta is a city in which wealth and intelligence, and not numbers only, should be entrusted with power.

Lastly, there is a point of very great practical importance which has not been touched upon, and that is that we are introducing the system of polling with the object of purifying the elections. So far as polling is concerned, it has been truly pointed out that it will operate in a way which will be regrettable, namely, that a great number of the more influential will abstain from voting. But I am sanguine that if the principle of plural voting is carried it will go far to correct that. When it is known that a person can give ten votes, pressure will be put upon him, and he will sacrifice a little time to give his votes. But when he knows that his vote is simply a unit, that its effect will be cancelled by the very next man who pays a rate of Rs. 25 and goes to the poll, it will be a strong temptation to him to say that he cannot afford the time, and that he does not care to give his vote.

On these grounds, I shall be sorry if the Council does not see its way to adopt the system of plural voting.

is addressed to the Council, but I have his leave to read it in the first instance.

"I request you will be so good as to lay before the Legislative Council the following remarks and suggestions which I beg to offer on the provisions for plural votes contained in the amended Municipal Bill :—

I. The principle of plural votes has my hearty approval. It has caused me some surprise and regret to find that Associations which represent very conflicting interests, and which seldom agree in anything, have rushed in to oppose a principle so just and equitable. 'When they do agree, their unanimity is wonderful.' My legal experience has taught me, however, that judgments from which both the contending parties appeal are rarely wrong.

II. The rule of one-man-one-vote is founded upon socialistic notions and is wholly foreign to Hindu ideas. Where the elective franchise is high, the rule may be worked without much manifest disadvantage. But its practical disadvantages come prominently into view where the franchise is low. There the masses completely swamp the classes and carry the elections, and are themselves carried by artifices and electioneering tactics which no one would wish to see take root as an institution in India, but which are fast growing with the growth of the elective system in our municipalities.

III. You can cure this growing evil in either of the two following ways :—By raising the elective franchise, or by making such an equitable distribution of the votes as to give a larger voice at the elections to those who bear a larger share of the burden of municipal taxation. The first is objectionable, in that it will altogether disfranchise a large number of persons. The second, which is no other than the scheme of plural votes, recommends itself at once to our minds as the right remedy. It will not disfranchise any body, but it will effect a cure by a much milder treatment, viz. by lowering the value of each vote. The depreciated value will be the ratio between the number of present votes (n), and the same (n) *plus* the additional votes (m) which will be given to plural voters. The Algebraic expression for the depreciation will be as follows :—

$$\text{Depreciation} = 1 - \frac{n}{n+m} = \frac{m}{n+m}.$$

IV. I have no data for making the calculation. But I am certain that the additional votes will never come up to anything like the present votes. There is, therefore, no ground whatever for supposing that the plural voters will have it all their own way, and the objections founded upon such fine phrases as plutocracy and oligarchy will necessarily lose some of their force. I am only afraid that the scheme, with the proposed limit of six additional votes, will be inadequate to give the plural voters—that is, persons of wealth, position and respectability—such a potent voice at the elections as may be desirable in the best interests of municipal administration.

V. I have always held a very strong opinion in favour of plural votes. After the Committee of the British Indian Association had sent in its communication, I saw several leading members of the Association, and they agreed with me that it was a very good

an advanced democratic stage. Therefore, if we in India allow representation in return for taxation, why should we say that a person who pays higher taxation should have only the same vote as a person who pays much less? The objection to plural voting is taken by two sections of the community; by the Mahomedans who naturally object, as they are the poorest rate-payers; but they will not loose relatively to what the state of things was before. In the case of the Hindu tax-payers, the plural vote is already exercised. No person would suppose that naturally the Hindu voters in the town would be eight times as much as the Mahomedans, and yet, except in the last elections, it has been much more. But no doubt the Mahomedans will lose the position which they would occupy under the one-man-one-vote system, if the principle of the plural vote is adopted, and I shall very much regret it. That is one of the details which I regret as the result of the system, but I cannot admit that because one community is poorer than another, a system of such extreme importance should be thrown over. Then when we come to the Hindus, I think the strength of their opposition is in inverse proportion to the force of the arguments adduced to justify it. To make his position strong, my hon. friend was obliged to pose as the champion of the Mahomedan interest. The moment he passed to the objections of his own community, his arguments grew weak. We find the opposition as unanimous as possible amongst their public bodies, but the reasons for that opposition are to be sought for anywhere than in the arguments ostensibly advanced. This is due to one of two causes. The Hindus in their own wards most unquestionably will not lose as a body by the plural vote: the only question will be as to the number of votes they can give in the other wards? Is their opposition then due to their desire to influence more potently the elections in the European wards—the Chowringhee and Theatre road wards? I do not believe it is so. I believe they will be perfectly satisfied to see Europeans have the representation of their own wards. I feel no doubt that the secret of their opposition is that they see in the plural vote a principle which makes something besides bare numbers the basis of representation, and that is precisely the very reason why I press the Council to adopt the principle of plural voting. The Council has heard an extract from the report of the British Indian Association read, but I have had a letter sent to me by a gentleman well known to the Council, himself an ornament to the High Court from which he has retired, and also once a member of this Council—I mean Babu Mohiny Mohun Roy. The letter

Burial Boards were appointed, they were elected by the system of plural voting. Then came the Local Government Boards for the improvement of sanitation, and here also you have the same system of plural voting up to a maximum of six votes. In 1870 a Select Committee was appointed by the House of Commons to consider the system of local taxation. This Committee was under the Chairmanship of Mr. Goschen. The report of this Committee was, I believe, the last authoritative report issued on this subject. The system of voting was specially examined into by them, and the Committee refused to condemn the plural system though specially asked to condemn it by the Chairman. On the other hand they did report unfavourably of the borough system of voting by which owners were excluded. Five years after this report was sent in, we had the all-important Public Health Act of 1875. I listened to my hon. friend with great care when he referred to that Act, and I thought it very extraordinary that he should refer to it, as it was so entirely against him, but he passed it over lightly, and went on to the Municipal Act, 1882, which was simply a consolidating Act. That Act recognised the system which had always prevailed in towns of the one-man-one vote principle, and nothing more. But the Public Health Act of 1875 was a fundamentally construction Act. By it the whole kingdom was divided into 985 urban sanitary districts with a population of 14 millions, and 575 rural sanitary districts with a population of $8\frac{1}{2}$ millions; and in these urban sanitary districts Local Boards were elected by plural voting, the maximum being six times the minimum. These urban sanitary districts in a great many instances included boroughs, and the Local Boards exactly adopted the recommendation of the Committee of 1870. So here is an Act thirteen years old—an Act passed after a Parliamentary Committee had reported on the subject, we had this principle adopted for the whole country; and if we are to follow English precedent, I cannot see how it can be said that the plural voto is a novelty or without sufficient precedent.

That being so, let us turn to the principle itself. At first sight it commends itself to the most ordinary intelligence. Taxation or the payment of rates is the basis of representation, and it naturally follows that the higher the taxation, the higher should be the share in the representation. We know that in certain countries and for certain reasons that system is condemned. Mr. John Stuart Mill is only one of many radical writers who could be referred to to prove that in the advanced democratic stage that principle is objected to; but India is not in

Next, the exercise of the plural vote was enlarged in the Bill so as to include to the same extent Europeans in association as partners. Still no objection was heard. Eventually the first objection came from the Calcutta Trades' Association, which in an extremely intelligent and well-considered representation pointed out that to some extent the plural vote even as modified handicapped Europeans, and I then suggested that we should not abandon the principle that paying higher taxation should give higher representation, but should make it absolutely equal for all communities, and make it more intelligible by making it an undisguised plural vote. As the Europeans on the average pay higher rates this evidently tended in their favour, and as soon as this was done, the proposal was received with a chorus of disapprobation from all the Native Associations. Not only from the Mahomedans, against whom the principle would tell most severely, did objections come, but from a community who ought not in principle to object, and who would scarcely, if at all, lose by it. I think this fact is very suggestive indeed. I will return to this hereafter. Now as regards the question of novelty, how far can it be supported by English precedent? I say that it has overwhelming precedent in favor of it. It is perfectly true that in the elections of Town Councils in England the principle of one-man-one-vote obtains, but the boroughs have been at all times the stronghold of English democratic feeling from which the liberal party has drawn its chief support; but my hon. friend overlooks the fact that that system was as widely different from the system in Calcutta as possible. The first principle of that system was that an owner was not allowed a vote *quâ* his ownership. Are those who object to the system of plural voting prepared to adopt that principle as well? If they wish to take English towns as their model, they should be prepared to follow the example in its entirety. But the Parliamentary boroughs excepted, at every step of English legislation you will find the plural system introduced. The primary unit was the parish where the plural vote was allowed not only at elections, but actually in voting on measures. The most important unit of local self-government in England is that of the unions in which parishes are united into unions, which dispose of more taxation than any other body. Unions have always been governed by a mixed body consisting partly of *ex-officio* members, namely, the Justices of the Peace, and partly of guardians elected by the system of plural voting. When highway guardians were constituted, there again the principle of plural voting was adopted. So again when the Commissioners of Sewers and

to be led away by enthusiasm to force their measures of reform without due regard to the capacity of the people. In such cases, unless their measures are leavened largely with the element of goodness and sympathy for the people, which can be secured only by having the popular element present in a large degree, their measures are sure to prove distasteful and oppressive. It is therefore in the true interests of progress that I would oppose this scheme, which would earn for municipal government the not very enviable name of oligarchy of wealth.

The HON. SIR HENRY HARRISON said:—The objections which have been raised to the plural vote are partly that it has been vehemently opposed by the leading Associations and the outside public, and partly that it is a novelty and not sufficiently supported by precedent. I attach much more importance to the second of these objections than to the first. If it is true that this is a practical novelty, and also that it is not supported by the precedent of local self-government in England, I shall be much less sanguine of the propriety of introducing it than I am. I understand that we are now discussing the principle of plural voting and not the details. I am much surprised that no hon. member has suggested any alterations in matters of detail, because I am far from sanguine that the details of the Bill in respect of plural votes are the best that can be devised. But in voting on the principle of plural votes, we should not allow questions of detail to influence us in its consideration. The proper way to meet objections as to details would be to suggest modifications in those details; and therefore, until such modifications are proposed, it should be remembered that we are discussing the question of principle only, and all who support the principle ought to vote for it even though they may differ as regards details. The plural vote, as has been pointed out in the report of the Select Committee, has been exercised in Calcutta substantially from the outset. The provision by which everybody who has paid Rs. 25 is entitled to vote could be worked in such a way that all the members of a joint Hindu family could vote, and as a matter of fact in a considerable portion of the town the plural vote has been exercised to a very large extent. It really has been the case that in some instances a constituency has been almost swamped by one or two rich houses. I therefore thought it necessary to introduce some check, and therefore the check was to limit the plural vote to six members of a family. Up to that stage not a word of objection was raised by the public against the plural vote. That practice has prevailed for four elections in succession.

community; and by opposing this scheme, it has not only borne ample testimony to the healthy influence exerted by the educated middle classes in this matter, but has furnished the strongest evidence against any necessity for the proposed change.

Lastly, I submit that the scheme proposed will be productive of evil. It will, to say the least, mar the growing popularity of our municipal institutions. I beg leave here to refer to the words of a great English thinker, who has written on the subject:—"I do not deny," says John Stuart Mill, "that property is a kind of test; education in most countries, though anything but proportional to riches, is on the average better in the richer half of society than in the poorer. But the criterion is so imperfect; accident has so much more to do than merit with enabling men to rise in the world; and it is so impossible for any one by acquiring any amount of instruction to make sure of the corresponding rise in station, that this foundation of electoral privilege is always, and will continue to be, supremely odious. To connect plurality of votes with any pecuniary qualification would be not only objectionable in itself, but a sure mode of discrediting the principle, and making its permanent maintenance impracticable." And if this is true in England, where wealth and intelligence have had sufficient time to adjust themselves to one another, it must be still more true in this country, where honorable poverty and indigenous Oriental learning have ever gone hand-in-hand where proverbially Lakshmi and Swaraswati, the goddesses of wealth and intelligence, are in perpetual discord, and where Western education, which may not underrate wealth so much, is an exotic plant of but recent importation. Considering the poverty of the people for whom these elections are meant; considering that we are about to extend the limits of our municipality suddenly and to increase taxation over a large additional area inhabited by a poor population; considering also that our municipal administration has to interfere constantly and minutely with the daily life of a heterogeneous body of rate-payers—considering all these things, I do submit that it is desirable, for every imaginable reason, that the popular element in the electoral body should have the preponderance. This is the only way in which we can secure popular confidence and disarm popular opposition. Measures of municipal improvement very often involve the certainty of present inconvenience and hardship, with perhaps but a doubtful chance of future good. And men of advanced ideas, who have been styled the party of progress—I say it in no disparagement of them—are apt often

ndividual having votes in different wards an instance in point. Each ward constitutes a distinct electoral unit, and if a man is qualified to take part in the election of each of these units, there is no reason why he should not be allowed to do so. So much for the principle and precedents upon which the scheme is based.

A scheme so little supported by principle or precedent should require the strongest grounds of necessity for its justification. But the only ground of necessity which has been brought forward, either in the report of the Select Committee or in the speech of the hon. member in charge of the Bill, consists in this, that wealthy and influential voters will not be induced to take part in the elections, unless you raise the importance of their votes, and that unless they take part in the elections, the status of candidates for election will decline. I should be most reluctant to accept this view as correct. Indeed the former of these two propositions reads almost like a libel against wealth and influence. But if this view is correct, with all my respect for wealth and influence, I feel bound to say that the wealthy and influential voter who requires the not very creditable stimulus of personal vanity to induce him to take part in the elections, is not likely to raise the tone of the elections very much. The truth, however, is, as I imagine, that the rich and influential keep aloof from these elections out of mere indifference, induced by a confidence, generally well founded, that their interests are not likely to be neglected, whatever the results of the elections may be. They further know and feel, and we should also bear that in mind, that even where their interests are neglected, the consequences of such neglect to them will not probably be so injurious as in the case of others. These then are the real explanations why, comparatively speaking, the poorer rate-payers, the educated middle classes, take such a lively interest in the elections, while the rich and influential keep aloof. But we should also bear in mind that whenever the rich and influential condescend to take part in the elections, their position and influence always exact for them such deference to their views from numerous bodies of tax-payers within the range of their influence—and all this without any coercion or undue influence exercised on the part of any body—that they really enjoy the privilege of having many more votes than one: so that in the self-adjusting economy of nature wealth and influence have all that they deserve without our aiding them with any artificial scheme like this. I would also advert to the letter of the British Indian Association. That Association represents the wealth and influence of the native

these are matters in which I submit the poor have from the very helplessness of their condition much greater interests at stake than the rich. Therefore I submit it is not easy to understand how on principle it can be maintained those who contribute more largely ought to have a greater voice in the election of the governing body. And mark the extremely artificial and unsymmetrical character of the scheme proposed. While the unit vote corresponds to a certain annual value of the property of the rate-payer, double, treble and other multiple votes do not rise in proportion to the increase in that annual value, and the scale stops suddenly with the additional tenth vote given. For aught one knows there is no reason why it should not go on multiplying up to, say, the fifteenth, or why it should not stop at the fifth. I do not wish to be hypercritical, but I submit that the burden lies heavily on those who propose an artificial scheme like this in supersession of the natural scheme of one-man-one-vote, to make out not only the actual fitness of the scheme, but to establish every matter of detail it involves. For by stopping short at any one point, we may be unwittingly giving an advantage to one section of the community at the expense of another. Were the scale to stop at 15 or at 5, it might have had just the opposite effect. So much for the principle of the scheme.

Now let us examine how far it is supported by precedent. The English Statute Book has been referred to, and the Public Health Act of 1875 has been cited as a precedent. My hon. friend, the mover of the amendment, has already pointed out to the Council that the Public Health Act applies to small parishes and unions, but without taking any notice of that, and without saying anything as to the difference in condition of the two countries, it will be sufficient to observe that if the Public Health Act of 1875 furnishes a precedent in favour of the proposed scheme, the English Municipal Corporations Act of 1882, which is a later enactment, supports quite a contrary view, and is decidedly in favour of the principle of one-man-one-vote. Then as regards the Calcutta practice, the instance which has been referred to of members of joint Hindu families voting is, I submit, no instance of plural votes. When a joint Hindu family or a joint Mahomedan family pays a certain rate or tax, the payment of that tax or rate is a sufficient test of the status of the family and of the possession by the members of that family of the requisite degree of intelligence. It also proves that they own property in the municipality. And these conditions being satisfied, there is nothing wrong in the individual members of that family being allowed separate votes. Nor even is the fact of the same

contributions. Let us see how far these assumptions are correct. Of course, if every rate-payer had a vote, then as the poor would always outnumber the richer classes, the latter might fairly claim the privilege of plural votes to restore the balance; but when, as is the case, the poorer classes who form the great majority of the rate-payers and pay small sums individually, but a large sum in the aggregate, are altogether precluded from voting, any scheme of plural voting for the rich, instead of restoring the equilibrium of interests, will have the effect of disturbing it most seriously to the prejudice of the lower ranks of the electoral body. Indeed, at one time, I had a mind to give notice of an alternative amendment to the effect that a scheme of multiple votes for the higher ranks of the electoral body ought to be supplemented by another scheme of sub-multiple votes for the lower ranks, so that two, three or more of the smaller voters might count as one. But I gave up the idea, not only with the view of avoiding complications, but because I am convinced that the pecuniary value of rates paid is no real indication of the qualification of the voter, but only an indirect test of a certain degree of intelligence, the really necessary qualification which cannot be directly tested in any other way. Now let us examine the other assumption and see how far it is correct. If the duties of Municipal Commissioners were like those of the Directors of Joint Stock Companies, and consisted merely in applying the funds to the greatest advantage of the different contributors in proportion to their contributions, then one might understand the propriety of giving to the rate-payers votes in proportion to the rates they pay. But the duties of Municipal Commissioners are really of a very different nature. It is true that they have to spend municipal funds for municipal improvements, though I may observe in passing that if the plan which has been recently adopted in connection with the opening out of a certain road were to meet with general favour, improvements could be effected without any cost but rather at a profit to the Corporation. But let that pass. Municipal Commissioners in spending the funds of the municipality for effecting improvements for the benefit of the rate-payers should have regard more to the magnitude of the wants of the rate-payers than to the magnitude of their contributions. This is their plain duty: to do anything else would be a gross dereliction of duty. On this ground no case can be made out. But this is not all. Besides spending money and doing other acts affecting the property of the rate-payers, Municipal Commissioners have other far more important duties to discharge which concern the convenience, the comfort, and the health of the rate-payers, and

were decidedly opposed to giving separate votes to individuals who possessed property in different wards, but ultimately, on the motion of the late Hon. Kristodas Pal, the Council was pleased to sanction plural voting as it now exists. The privilege, however, was of such a limited character that it would not justify the Council now to enlarge it, but rather, considering the objections against it, it would be necessary to curtail it. Finding so many persons opposed to the system of plural voting, I am not prepared to agree to such an innovation in the law.

The HON. MOULVIE ABDUL JUBBAR in supporting the motion said:—It does great credit to the hon. member to ask for the omission of section 10, and thus to plead the cause of the poorer classes of tax-payers. This section would not so much affect the interests of the community to which he belongs, but it affects seriously the interests of my poorer fellow-subjects, the Mahomedans. The principle of plurality of votes will not prejudice the Hindu rate-payers; but, as already observed by the hon. member, it will lay the axe to the root of the election of Mahomedans. If the new sections 10 and 11 of the Bill are not expunged, it will make the cause of the Mahomedans worse than it is; their return at the general elections will depend entirely on the suffrages of the Hindu electors.

The HON. DR. GOOROO DAS BANERJEE said:—I also support this amendment, which is in fact also an amendment of my own, and the object of which is to omit the clauses which provisions in the Bill relating to the scheme of plural voting. I do not contend that the principle of one-man-one-vote is always a perfect principle. But I oppose the scheme of the Bill—*first*, because it is not based on any sound principle or sufficient precedent; *secondly*, because it is not required to remove any serious inequality or injustice; *thirdly*, because it would be a source of evil in itself. And I adhere to the existing scheme, because under present circumstances the balance of convenience is greatly in favour of it. As the question involved is a very important one of principle, I beg leave to submit my reasons for the Select Committee to consist in "recognising the right of those who contribute most to the maintenance of the Corporation to a more potent voice in electing the governing body." That would be justifiable only if it were true that all rate-payers had votes, and the duties of Municipal Commissioners consisted only in the application of the municipal funds, so as to give to the different classes of the rate-payers advantages proportional to their

by the plural vote, inasmuch as they represent the landed proprietors of the town, and necessarily will have a larger number of votes given to them. They say:—

"The Select Committee urge that if the one-man-one-vote principle is adopted, 'it is certain that as the poorer rate-payers, who will everywhere be the majority, learn to use their power, the status of those who present themselves for election will gradually but inevitably decline; while if wealth is given its due weight, better and more influential persons will be willing to offer themselves for election.' The Committee of the Association regret very much that they cannot subscribe to such a doctrine. If it were sound, the best course to follow would be to limit the franchise to the wealthy alone by raising the limit of qualification to a sum far higher than Rs. 25. The Parliamentary franchise has been gradually extended to include less wealthy classes than before, but it may be allowed that the status of members of the House of Commons has not suffered by the change. The qualification of a candidate in the Bill has been reduced to half of what it is under the law in force. If the status of the candidates was at all in question, the limit assigned to the qualification should have been raised, not lowered.

"The Select Committee ask: 'Are all rate-payers, who contribute up to a certain minimum, to be placed on an equal footing, or are those who contribute most, and who, in the great majority of cases, are better qualified to judge of the needs of the Town, to have a more influential voice?' The last question involves a solecism. It can hardly be maintained that the ranks of those who pay most alone include persons who are qualified to judge of the needs of the Town; they may as well be found among those who pay least. The Committee would prefer to have, in the election of a candidate, the opinion of all such persons, whether found among the most or the least paying, and are unhesitatingly in favour of placing all rate-payers possessing the franchise on an equal footing."

Of the whole number of representations which have been received on this subject, all are in favour of this principle, except the Calcutta Trades' Association, which is not very much in favour of it, though it has accepted it. In their letter, dated 24th January, they say in paragraph 7:—

"The Committee have given their best attention to the provisions of sections 10 and 11, and are prepared to accept them as an improvement on the legislation hitherto proposed on this all-important matter. They cannot, however, but consider that too much weight is being still accorded to the owners of property at the expense of the tenants, and are of opinion that the scale for additional votes under section 10 should be reduced."

That is the only body, so far as the public is concerned, which is in favour of the system, whereas the representations of all other bodies are against it. Now as to whether it is a retrograde movement or not. Our predecessors in 1876 thought fit not to sanction anything of this kind, but they went so far as to object to the plural vote as it exists at present. At one period they

each member of a firm or each of the occupiers of a house, if he paid proportionately Rs. 25, was entitled to vote separately."

Then they have given a tabular statement, showing that, if the plural vote is allowed, they will suffer as well as the Europeans. How far that is a correct description of what is likely to happen I leave the hon. member in charge of the Bill to say. There can be no doubt that the adoption of the proposed measure will injure the prospects of the Mahomedans, and it may also injure the prospects of the Christian inhabitants of the town. I have not gone through the statistics with that amount of care necessary to be able to say whether that will be the inevitable result, but I have no doubt the hon. member in charge of the Bill will be able to enlighten us on the subject. So far, however, as the Mahomedans are concerned there is no difference of opinion. Now let us see what the Hindus say. The Indian Association in their representation of the 26th January say:—

"The Committee would beg to record their humble but emphatic protest against the principle of plurality of votes which has been recognised in sections 10 and 11 of the Bill. These proposals, the Committee submit, are distinctly retrogressive in their scope, and they will serve to perpetuate invidious distinctions between voters. They cannot fail to concentrate enormous influence in determining the elections in the hands of a few wealthy families and mercantile firms. The Committee are not altogether without apprehension of particular wards being converted into pocket-boroughs by the operation of these clauses. Further, the clauses will operate with special hardship upon the Mahomedan community, the members of which are not generally wealthy, and for the most part live in houses that are not heavily rated. The Committee would in this connection refer to the provisions of the Mofussil Municipal Act to which some attention should be paid, as it is now proposed to incorporate a Mofussil Municipality. Under the Mofussil Municipal Act the one-man-one-vote principle prevails to such an extent that within the limits of the same Municipality a voter is not even allowed to have votes for different wards though he may have property in them. And the Committee submit that it is a salutary principle, as it prevents particular families and special interests from acquiring that preponderance in the Municipality which would be fatal to the interests of local self-government."

The Indian Association, it is well known, represent the middle classes of the people, who will not be benefited by this system to the extent that they will be injured. Therefore their representation will not necessarily attract that amount of sympathy from the Council as that from another body who will mostly be benefited by this provision, and who are yet strenuously opposed to it. It is a fact impossible to deny that of all persons in the town the members of the British Indian Association will be mostly benefited

plural vote as it exists should be disallowed. On that suggestion the Select Committee thought fit to introduce this section in the Bill. It seems that the present system of plural voting is objectionable, the mode of remedying it would be to abolish it, and not to allow different classes of the community still further power of plural voting. In all the elections of Town Councillors in English cities and boroughs, this system was not followed; the system of one-man-one-vote was rigidly adhered to. It was at parochial elections that plural voting was allowed, but such elections were different from those of Town Councillors, and were not so important. That being so, it seems to me that it would be infinitely better to take our precedent from the rules regulating elections in large towns and not from those which prevail in parishes. It is obvious that if the system proposed in the Bill be adopted, one of the principal communities in Calcutta would suffer very much—I mean the Mahomedan community. In the first place they will suffer because the small number of Commissioners hitherto returned by them will be reduced by two, inasmuch as only two Commissioners will be allowed to each ward, instead of as at present three to some, which enabled them to return in each of the two latter wards one Commissioner from their body; and secondly, they will suffer, inasmuch as being a comparatively poor community they will not have the advantage of plural votes. It is a singular fact that all the Mahomedan Associations have unanimously objected to the system of plural voting, and entered their protest against it. The Mahomedan Commissioners have also in a body objected to it. In paragraph 4 of their representation they say:—

"We now come to the most important sections—we mean sections 10, 11, and 12—which provide for plurality of votes. It is a well-known fact that of all the three sections of the community, the Mahomedans are the poorest, their proportion to Hindus as regards landed property is concerned is not even 1 to 200; while their proportion to Christians as regards income is not even 1 to 100; such being the case, the result of these sections cannot but be most prejudicial to Mahomedan interests. It is stated that it has been the rule in England to recognise plurality of votes in measures of local self-government, and in support of their contention, the Select Committee have cited three Acts passed in different years. But we have learnt (*vide* Hon. Babu Kali Nath Mitter's speech at the Municipal meeting of the 21st) that there is no town or borough in the whole of England enjoying the privilege of electing Town Councillors where the system of plurality of votes is allowed."

and they conclude by saying:—

"It is true that the plural vote has hitherto been exercised in Calcutta. Members of Hindu and Mahomedan families had the privilege of voting separately, but so had the Europeans,

words "a person claiming to vote under clauses (*a*) or (*e*)" be substituted. He explained that this was a verbal alteration, the only difference being the substitution of the words "claiming to vote" for "qualified."

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 10 be omitted. He said:—This is an innovation introduced by the Select Committee. It was not in the Bill as it had been passed by the Committee on the former occasion. In his speech in Council on the 7th January last, Sir Henry Harrison by way of justification for this novel measure said:—

"It seemed to have been left out of sight altogether, he did not say by all persons, but by many, and he could cite several of the reports which had been addressed to this Council in illustration of this, that there was a middle course which widely differed in principle from this allegiance to majorities, viz., that it was advisable and expedient in the highest sense, in the cause of good government, that those classes and persons in the town who were most fitted to understand its interests and guide its administration wisely, should be associated together in that administration, and that, as these classes knew best who understood their views and their wants, they should not have representatives chosen for them by the Government, but should elect their own representatives as Commissioners. This principle held up fitness and not numbers as the final test, and nomination was expressly maintained side by side with election on purpose to secure a proper voice to the classes who possessed fitness without numbers. He himself had no doubt, and he thought that most of those he was addressing would agree that this was the truer interpretation of the intention of the Legislature in introducing the election system, and at any rate it was the only sound principle which could be applied to the government of a city like Calcutta. This was the view of the electoral system which he had consistently held from the time he had had any voice in the government of Calcutta, and he had observed that it led to continual misrepresentation of his views on one side or the other. If he said anything or wrote anything deprecating the divine right of majorities, he was accused of backsliding and of advocating official absolutism. If he said anything in praise of the good work done by the elected representatives, it was at once assumed that he was desirous of seeing democratic institutions introduced into India, or at least into Calcutta. Now the question of the plural vote did seem to him to have some bearing on this very important principle. We naturally took the English electoral system as our model, and there we found two systems working in local bodies: the system of one-man-one-vote and the plural vote. If anything, the plural vote seemed the more favoured, but in boroughs the one-man-one-vote system was the law."

This change was made owing to the representation made by the Calcutta Trades' Association. They object to the plural vote as it exists at present, on the ground that certain classes of persons get an advantage which they should not derive, and they suggested that the system of allowing the

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 11th February, 1888, at 11 A.M.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The Hon. G. C. Paul, C.I.E., Advocate-General of Bengal.
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. Sir Henry Harrison, Kt.
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. G. Ieving.
The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Das Banerjee.

CUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The Hon. Sir Henry Harrison moved that the clauses of Chapter II, Part I, of the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison moved that in line 2 of section 9, for the words "(*e*) or (*f*)" the words "or (*e*)" be substituted.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison moved that in line [illegible] paragraph of section 9, for the words "a person [illegible]

of giving members to the University did not find favour. There it was proposed to give graduates votes in the ward in which the University is situated, but it was objected that the effect would be to turn out the other members of that ward. If we leave this clause out of the Bill, we shall be admitting ourselves to be more illiberal towards education than is the case in Bombay or in the mofussil municipalities, and I shall be sorry if that is done.

The Hon. Dr. Gooroo Das Banerjee said:—I oppose this amendment, because the arguments in support of it are based on the erroneous assumption that in allowing graduates to vote, we shall be allowing persons to vote who are in no way connected with the payment of taxes. A graduate may be contributing to taxation, but yet not up to the minimum amount prescribed by the Bill. In most cases he does satisfy the condition of being a rate-payer, only not to the minimum requirement. The possession of a degree which is a sure test of intelligence should be taken, in the case of a graduate, to supplement the deficiency in the other qualification, viz., the paying of rates. The two taken together should make up for him what is made up in other cases by the payment of a certain minimum rate of taxation.

The Motion being put, the Council divided:—.

Ayes 6.	*Noes* 6.
The Hon. C. H. Moore.	The Hon. Dr. Gooroo Das Banerjee.
The Hon. G. Irving.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Sir Alfred Croft.	The Hon. Babu Kali Nath Mitter.
The Hon. T. T. Allen.	The Hon. Moulvie Abdul Jubbar.
The Hon. C. P. L. Macaulay	The Hon. Sir Henry Harrison.
The Hon. H. J. Reynolds.	The Hon. the Advocate-General

The numbers being equal, the President gave his casting vote with the Ayes.

So the Motion was carried.

The Council was adjourned to Saturday, the 11th February, 1888.

GORDON LEITH,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 14th February, 1888.

Reg. No. 1284SG—300—14-2-88.

Madras be included? Why not include graduates of the Universities of Oxford and Cambridge, in which the standard of learning is not lower than in the University of Calcutta? These objections, it is true, are met by an amendment of the hon. member opposite. But there are others no less cogent. There are many men of learning in Bengal whose learning was acquired at a period prior to the establishment of the Calcutta University. If so, why not give a vote to those senior scholars who, to the same amount of learning, have added age and experience? Again, in determining the franchise for a Municipality, the very persons who might be expected to exercise the vote with the greatest benefit to the public would be those who have taken degrees in Medicine and Engineering. The questions with which a Municipality is chiefly concerned are questions of health and engineering, such as water-supply and drainage. And yet because the University, by a slight and trifling technicality, calls such persons licentiates and not graduates, they will be excluded from the franchise and not be allowed to vote. To give exceptional privilege to graduates in Arts and Law, subjects with which the Municipality is not concerned, is not consonant with sound principle.

The Hon. Sir Henry Harrison said:—I think that so far as this clause stands it is a matter of small importance. Its present value entirely arises from the principle which it involves, whether you will allow intelligence to be a qualification for voting, or must you insist on the payment of rates also. My hon. friend, Sir Alfred Croft, has admitted that graduates will probably give a very good vote indeed. My view is that when we are looking for constituencies to elect members, we want constituencies which will return good members. Generally speaking we want to combine intelligence with wealth. Intelligence without wealth is not a desirable factor. Wealth without intelligence is also undesirable, because all the proceedings of the Municipality are conducted in English. But where you have a high standard of intelligence, an exception may be made. To omit this clause will be to place high intelligence in a more illiberal position than elsewhere. I find in the Bill now before the Bombay Legislature that they propose to give two members to the fellows of the University alone, as well as votes in the wards to all graduates. With regard to the argument that we have left out licentiates and also graduates of other Universities, I have not the slightest doubt that every member of the Council who will vote for the clause in this Bill will welcome the addition of such voters if any one proposes it. The proposal which at one time was mooted,

soon where giving the graduate vote might cause injustice. Section 36 of the Bill defines the objects upon which the municipal fund is to be spent, and I believe that under one of its clauses the establishment and maintenance of free libraries might possibly be included. Again, there is an amendment before the Council in favour of supporting schools for primary and technical education. Both these objects I consider not only laudable, but entirely within the scope of a Municipality; and it is pretty certain that the Graduate vote would generally be given in their favour. But I hold that we are not entitled to call in the assistance of the Graduate vote. For if free libraries are to be established, or primary and technical schools to be maintained, the persons who should decide this question are those who will have to pay the bill and no others.

But putting aside the question of principle, I come to the form which the clause assumes. The qualification is given to fellows and graduates. Now the corresponding clause in the Bengal Municipal Act gives the franchise to graduates and licentiates of any English or Indian University; but that form is not adopted in the present Bill. The Bill proceeds on the assumption that fellows and graduates of the University of Calcutta have in some way a close connection with Calcutta. That position I cannot accept. The University of Calcutta not localised in that way. If it has any local existence, it exists wherever its influence extends; that is to say, wherever its affiliated Colleges are situated; wherever its examinations are held, wherever its graduates reside. It is true that the Senate House of the University is situated in Calcutta. The Senate House does not belong to the University, but to the Government. Still, in so far as the University pays rent in the sense of providing for the repairs of the building, and also pays the municipal taxes, the University as such might claim a vote in consequence of such payments. In that point of view there was in the first draft of the Bill, according to which graduates were to vote in the ward in which the Senate House is situated, some slight and far off connection with the leading principle of the Bill; though giving a vote or ten votes to the University is a very different thing from giving it to the hundreds if not thousands of University Graduates who reside in Calcutta. But in the present draft the vote is given to graduates for any ward in which they reside; and thus the last thin link of connection with the principle of the Bill is snapped. You give the qualification for learning alone and let nothing else. If that is so, I must protest altogether against the Graduate vote being limited to graduates of the Calcutta University. Why should not the Universities of Bombay and

I may remark that the Mahomedans are at one with the Europeans on this question, so that the proposal is refined down to a concession to the Hindus, who already possess so disproportionate a share of voting power. I therefore move that clause (*f*) of section 8 be omitted.

The HON. SIR ALFRED CROFT said:—As I intend to support this amendment, I had better explain my reasons for doing so. It would be quite out of place for me to refuse, and I have no intention of refusing, any legitimate claim that may reasonably be put forward on behalf of fellows and graduates of the University. But I have not been able to satisfy myself that this particular claim is a reasonable one. No question of course can arise as to the fitness of graduates to vote, and no one can dispute that they would vote with intelligence and discretion. I am sure that the tendency of the graduate vote would be to return as Municipal Commissioners men of high character and position. But it seems to me that the question is not solely one of fitness. I doubt whether the question is at all one of fitness directly. The question of fitness does not enter into those which I consider the leading clauses of this section, clauses (*a*) to (*e*), which give the right to vote to the owner and occupier of houses, to those who pay rates and taxes, and to those who carry on any trade or business; and these I conceive to be the only true and safe principle on which to proceed in deciding the qualifications for a voter. Clause (*f*) proceeds on an entirely new, and as I consider, a wrong and faulty principle. It is this: that the persons who pay the taxes are not competent to decide how those taxes should be spent without calling in men of superior learning to help them. Or else it means that men of superior learning have a claim to dispose of funds to which they themselves have not contributed. I quite agree that it is possible to conceive cases where the possession of a degree might reasonably be held to give a man the right to vote, for instance, in the election of members of Parliament, where the questions for consideration are the most weighty and varied that men can have to deal with. But when, twenty-five years ago, an attempt was made to introduce the Graduate vote, the sense of the nation at once rejected it as a 'fancy franchise.' It seems to me that the only safe principle, beyond which it is dangerous to go, is to give the right to vote according to the interest which the voter has in the prosperity of the town and the development of trade and commerce. It may be said that the vote may safely be conceded to graduates, because they are a very deserving and enlightened class of men. But cases may arise very

[*Sir Henry Harrison; Mr. Irving.*]

The HON. SIR HENRY HARRISON said:—I do not attach any very great importance to this question, but on the whole I think it better to leave the Bill as it stands. As long as the Suburbs and Calcutta were under entirely different bodies, a very large number of persons came into Calcutta from the Suburbs for purposes of business. Now, these persons will all be in Calcutta, and therefore the amendment will be almost inoperative; but under the amendment some persons living out of the enlarged Calcutta, such as at Howrah, or up the line would still get a vote for the business which they carry on in Calcutta, and it is on the whole but fair that those who do not reside within the limits of the Municipality should leave the administration of its affairs to those who do.

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 8.
The Hon. Dr. Gooroo Das Banerjee.	The Hon. C. H. Moore.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. G. Irving.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Henry Harrison.
The Hon. Moulvie Abdul Jubbar.	The Hon. T. T. Allen.
The Hon. Sir Alfred Croft.	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

...dies.

MR. IRVING, in moving the omission of clause (*f*) of section 8, said:—The Amalgamation Committee, at page 9 of their Report, in speaking of the University, remark: "We do not say that the class who constitute it do not find adequate representation under the existing system, but the University has clearly a large interest in the metropolis, and it forms a most honourable and highly qualified constituency."

There can be no doubt that most of the fellows and many of the graduates are already qualified in virtue of their being rate-payers. And although this is not the case with a certain proportion of the younger graduates, I can see no sufficient reason for giving them a vote apart from the primary qualification derived from the payment of rates. Graduates pass through the University annually in hundreds, and might, in course of time, if not immediately, cause a serious disturbance of the balance of voting power in certain wards.

occasion was that if they took an interest in municipal administration, they would become valuable members. I was opposed to this proposal of the Select Committee on the ground that it would be an invidious distinction conferred upon a few public bodies out of a large number of similar Associations. As to the observation made by the hon. member in charge of the Bill that the Mahomedan community will suffer, I think it came from him in an awkward manner, seeing that he is the most enthusiastic supporter of the principle of plurality of votes which directly goes to the principle of election, and will operate to the detriment of that community. I think the Mahomedans may fairly say: "Save us from our friend."

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 8.
The Hon. Dr. Gooroo Das Banerjee.	The Hon. C. H. Moore.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. G. Irving.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. T. T. Allen.
The Hon. Sir Henry Harrison.	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The HON. DR. GOOROO DAS BANERJEE moved that in line 3 of section 8, for the word "resident" the words "residing or personally carrying on business" be substituted. He said:—On reasonable principles the grounds upon which one ought to be allowed the right to vote are—*first*, the payment by him of a certain rate of taxation, and *secondly*, his having an interest in the administration of the Municipality. Now, there may be many rate-payers who may pay a large amount of taxes to the Municipality, such as fees for licenses to carry on certain professions, and yet they may not reside in Calcutta in the strict sense of the term. So far as the first condition is concerned, viz., the payment of a certain amount of taxes, they evidently satisfy it. Then as to the second condition as to whether they have any interest in the administration of the Municipality although it may not be strictly true that they reside within the town, yet they may reside within it for 15 out of the 24 hours in the day. In such a case to preclude them from voting merely because they do not, in the strictest sense, reside within the limits of the Municipality would be hardly just. That is an anomaly which ought to be removed.

Honour may appoint them. Instead, however, of nominating members consecutively the Bill proposes to effect the same object legislatively. It is very important that commercial interests should be largely represented in the Municipal Corporation, and it becomes a small question whether the Government having made up its mind to appoint a certain number of commercial men did so under rules provided for their election, or gave these commercial bodies themselves directly the power to make the election. It is a question whether the power of the Government to nominate should in part be given over to three public bodies who possess and represent important interests in municipal administration. I often hear complaints made by different sections of the community as to the want of representation of particular sections of the community in the Municipal Corporation. We are not here to legislate on sentimental considerations, or to regard feelings in the matter; our duty is to constitute an administration which will be effective, and there is scarcely the slightest doubt that the commercial element is essentially necessary for administering the affairs of the town in which they must be very largely interested. That being so, and it being quite plain that members of the commercial community must be selected, what becomes of the argument of the hon. member who opposed the amendment that the Mahomedan community will suffer? The interests of the Mahomedans could not possibly suffer by the appointment of ten mercantile gentlemen. If there are Mahomedans who are largely interested in trade and commerce, their interests will be well represented by members nominated by the three public bodies. The objection that the Mahomedans will suffer in consequence of the commercial interest being represented as proposed is without foundation and a mere sentiment. If it be supposed that their interests will suffer, although we may regret the circumstance, we cannot let that consideration interfere with the admitted necessity of strengthening the commercial interest in the Municipal Corporation.

The Hon. Mr. Irving said:—The Calcutta Trades' Association has now been in existence upwards of fifty years, and no doubt its members are all busy men; and though they have probably less time to spare than members of the Chamber of Commerce, yet I am certain that many of them are quite willing to give up a certain portion of their time for a public purpose of this kind.

The Hon. Babu Kali Nath Mitter said:—There seems to be some misapprehension on this subject. I have no objection to members of the commercial community being represented in the Municipality. All that I said on the last

ings of the class I specially represent. As I understand it, the highest authorities in connection with this Bill have conceded that the paramount interests concerned are commercial, and there can be no doubt that the paramount commercial interests are those represented by the Chamber of Commerce. The hon. member in charge of the Bill has expressed a doubt whether the Chamber of Commerce will always fully represent these interests, and he has quoted a precedent against it, the correctness of which I must admit. But it is my deliberate opinion that a similar state of things will never occur again, and that it may be accepted that the Chamber is, and always will be, thoroughly representative. The Hon. Babu Kali Nath Mitter has, however, twitted Europeans with shewing an indifference to municipal affairs amounting to cancelment of their claims for consideration; but I find in the papers before us innumerable memorials about this Bill from European Associations which I submit betoken a condition of active agitation totally incompatible with apathy. It has been further alleged that they shew an unwillingness to serve as Commissioners, and in regard to this the Hon. Babu Kali Nath Mitter has said that they will never sacrifice five hours of their time discussing important affairs; but the view of Europeans is that the Municipality takes five hours to do what might be done in one, and what they will not do is to waste four hours of valuable time. This I know from personal experience has been the main cause which has deterred European merchants from accepting nominations to the Municipality. They are not backward when representatives are required to act upon the Committee of the Chamber, upon the Port Trust, and other commercial associations, all which represent public and not merely personal interests; but the predominant feature of these bodies is to get through the largest amount of work in the briefest space of time, and if a larger infusion of the European element will work a reform in this direction in municipal procedure, and bring the meetings of the Corporation into practical compass, I do not believe there will be any difficulty in getting merchants to do their duty as citizens in municipal matters as they do in reference to matters commercial.

The Hon. the Advocate-General said:—It seems to me that this discussion is of very little importance after the declaration of His Honour the President that he intends to support the amendment, because, under the existing law, the Local Government is competent to appoint ten Commissioners from the three bodies mentioned. He may make rules, and if representatives of the Chamber of Commerce and the other two bodies are selected according to such rules, His

I should like, however, to assure my hon. friend, the mover of the amendment, that there was not the smallest idea in the minds of those responsible for the framing of the clause of injuring the interests of Mahomedans; and I must say that I have had some difficulty in understanding how my hon. friend and the Mahomedan Literary Society have come to persuade themselves that there was any such idea. My hon. friend has expressed his high appreciation of the importance of commercial bodies in Calcutta, and of the benefit which the town has derived from commerce. Is he prepared to say that 10 is too large a number of Commissioners for Government to nominate to represent them, and if so, where is the danger to Mahomedans in reserving this number out of the 25 to commercial bodies? My hon. friend opposite, Dr. Gooroo Das Banerji, said that the proposal is unnecessary, because no one has objected to the present system as unfair. He forgot, however, that it had been found to be inconvenient; and this brings me to my hon. friend Sir Henry Harrison's objection, which I myself consider the very strongest point in favour of the clause as it stands. Sir Henry Harrison argued that because hitherto, with one distinguished exception, members of the Chamber of Commerce have not regularly attended meetings, therefore there is a danger that those now to be elected by them will not, and that thus valuable votes will be lost. But would not the Chamber be more likely to find men among the commercial community willing to take a part in the management of the town than the Government? The objection to the present system is that Government has difficulty in finding men willing to be nominated, and that those nominated are unwilling to take a share in the work. I can from my own experience that I have had to [illegible] vacancy, to write to four gentlemen in succession on behalf of Government before one could be found to it. I maintain that the Chamber will be better able than Government to find commercial men with a taste for Municipal work and willing to serve, and that those elected would feel a sense of responsibility which would impel them to discharge duly the functions entrusted to them. I therefore ask the Council to accept the clause as sound in principle and convenient in practice.

The Hon. Mr. Moore said:—I beg leave to say a few words on this subject so far as it refers to the Chamber of Commerce. I support the hon. member who has just spoken in voting for section 8 entirely on the question of principle, in doing which I believe I am reflecting the feel-

of view of earnestness of direction towards progress or towards reform which they would be likely to bring into the body of the Corporation that the question of what class a candidate belongs to has to be considered; and I think that is what my hon. friend, Sir Alfred Croft, meant, and that Sir Henry Harrison has a little misunderstood him. I must take the opportunity to say that I was sorry to see the remark made by the British Indian Association that the native Commissioners are to be repressed in every way, and that we are practically destroying the influence of the natives. Can anybody suppose that if the proposals made by the Select Committee are adopted, the influence of the native Commissioners will be in any way destroyed or repressed? I should have thought that had it been possible to have the heads of the great European firms as representatives of trade and commerce, it would be a help, a strength and an honour to the Corporation. My own fear is just the contrary, that you will never be able to get the representatives of commerce to go out of their way to bring their knowledge and practical ability to bear on the affairs of the town. I wish it could be otherwise.

To come back to this particular point, my own position is this. The proposal of the Select Committee will have the effect of whittling away to a certain extent the power of the Local Government in regard to making nominations, and for that reason I shall vote for it. I think that as time goes on, it will probably be found more and more possible to keep down the proportion of nominations left in the hands of the Government; but at the same time I am not insensible of the objections which have been brought forward to the proposal of the Select Committee as to their particular distribution. There is something in what they may represent to-day, with reference to which there is no guarantee that these bodies, whatever same in future, you will have hereafter. And if you once stereotype the particular distribution, you will have a long and disagreeable process to alter it. At the same time to go through Committee have given the subject serious thought; and I am not sure that any better proposal can be made. It would be unseemly for me at least to vote for bringing the whole of the nominations back to the hands of the Government, but I have not the slightest wish to influence any hon. member voting as he wishes.

The Hon. Mr. Macaulay said:—After the speeches of Honour President and my hon. friend Sir Alfred Croft, I have little to say, as most of the the objections which have been brought against the clause have been answered.

[*The President.*]

HIS HONOUR THE PRESIDENT said:—I had not intended to take any part in the debate on this question, at all events at the present time. But from the remarks which fell from the last speaker, I presume that I should do well to explain my position in reference to this section. The section is one for disposing of a certain number of nominations which have hitherto been in the hands of the Government, and transferring them to certain elective bodies. My hon. friend Sir Henry Harrison said that he hoped the fact of his being the member in charge of the Bill would not be in any way a hindrance to his voting according to his conscience. I wish to make it clear that I am in no way the keeper of my hon. friend's conscience. But more than that, his remark induces me to state most distinctly that on this point I have not the slightest desire to influence any one's vote. My own position in reference to the point under discussion is one almost of indifference. I feel very much as Sir Richard Temple said when the question was originally before him—the question whether one-third or one-fourth of the Commissioners should be nominated—that he really cared neither one way or the other, and was quite willing to leave it to the Council to decide. The only purpose to which nomination could be properly put was to redress anything like a monopoly of representation. For that purpose I hold it to be a very valuable power in the hands of the Government. I cannot but feel the force of what the Chairman of the Corporation has said that the tendency will probably be for the majority of the elected Municipal Commissioners to become more and more the representatives of a single class. By "class" I do not mean either Hindu, Mahomedan or European, but people of one way of thinking and of one set of habits, and it is in that point that the danger of a tyranny of the majority is always more likely to lie. I should be anxious, in regard to municipal representation, as in political representation, to provide in a fair way for minorities, to introduce diversity of thought, in any bodies of this kind. If the elective representatives are all professional men, I should like to bring in representatives of the wealthier classes who are not willing to stand for election. If the whole were of one religion, I should like to [illegible] in men of another religion. And the same as to particular interests. If elected Commissioners represented one special interest, I should consider it my duty to nominate persons of another interest. But I quite agree with my hon. friend, Sir Alfred Croft, that the question ought not to be considered as a question of Europeans *qua* Europeans, or Mahomedans *qua* Mahomedans, or Hindus *qua* Hindus. It is not from the point of religion, but from the point

recognise their existence. And with regard to the other contention that the votes will be given twice over, because the members of the Chamber of Commerce and of the Calcutta Trades' Associati on have the right to vote in their individual capacities and collectively in the Associations of which they are members, I consider that the two qualifications differ materially. As occupiers of houses and as payers of taxes they have a right to their individual votes; as a body associated for a very definite object, namely, the promotion of trade or commerce, they are entitled to representation on very different grounds. It seems to me, therefore, that the contention against double voting falls to the ground.

The HON. SIR HENRY HARRISON said:—Although this is not a question to which I attach very great importance or look upon as vital to the Bill, still as I am disposed to concur with the amendment, the Council will probably like to hear my reasons. I assume that, though in charge of the Bill, I am at liberty, if I think any proposal in it mistaken, in supporting an amendment which proposes to alter it. Whether my reasons are sufficient or not, I must leave the Council to judge. I think it but fair to recognise the fact that the system of nomination by Government is the system in possession. All the arguments for not disturbing the proportion of two-thirds, or for building so much on the present foundation, apply here to leaving the nomination as heretofore in the hands of Government. Secondly, it is an advantage to leave the hands of Government free. The object of leaving to the Government the nomination of one-third of the Commissioners is admitted on all sides to be mainly to secure better representation, that the Government may reduce inequalities as far as they are produced by the elections. In this case the Government would have greater power of doing so if all the nominations were left in their hands than if 10 nominations were taken away. On the other hand, I most distinctly say that if the representatives of these bodies can be induced to work, they are just the persons we want. As far as the Port Commissioners are concerned, they are entitled to have their own representatives on the Corporation if only by reason of the large amount of rates they pay. As far as the Chamber of Commerce is concerned, the endeavour has hitherto been to try to induce the leading members of that body to sit on the Corporation, but unfortunately nearly always the endeavour has been unsuccessful. As far as the members of the Calcutta Trades' Association are concerned, there is greater willingness to work, I suppose because the affairs of the town more intimately concern them;

thening. The possible consequences to the Mahomedan community of reducing the number of nominations that remain in the hands of the Government have been dwelt upon in a very serious way by my hon. friend, Moulvie Abdul Jabbar. Still I understand that in distributing its nominations, whether they be 15 or whether they be 25, the Government habitually exercises its power with reference to the comparative strength of parties as determined by the result of the preceding elections, and with the object of redressing any inequalities that may have arisen. If therefore the European element in the Municipality has been strengthened by the addition of 10 members elected by these bodies, the Government would be justified in appointing additional members from any other section of the community which, in consequence of that fact, might stand in need of strengthening. But there is another point to consider. I am not inclined to attach any great importance to the distinction of Europeans as such, or of Mahomedans and Hindus as such. Distinctions of this kind do not seem to me to be relevant to the constitution of the Municipality. We have been told that there are two elements in the Municipality,—the party of progress, constituting a motive power, and the conservative party or party of criticism; and that on the just balance of these two parties the success and strength of the Municipality depend. It is probably by considerations of this kind that the Government would be guided in making its appointments; and if so, the question of Mahomedan, or Hindu, or European would not arise at all in that form. Another difficulty has been raised on the ground that these bodies are self-constituted Associations. It has been stated that the giving of the right of election to these Associations will create difficulties hereafter, in dealing with the claims of other Associations of a similar character. But there is one consideration which will bring these difficulties within very narrow limits, namely, that of the qualifications on which the right should be based. It seems to me that the only qualifications that can be recognised are the owning or occupation of property, or the paying of taxes, or the having in some other way a close pecuniary interest in the good government of the town, in the application of the Municipal Fund to the best purposes, and in the promotion of trade and commerce. If you put it in that way you at once get rid of a large number of Associations which are not connected with the objects I have named, as for instance literary Associations generally. It is true that the three Associations named in the Bill have no statutory character; but as a matter of common notoriety they have so defined and permanent a character that we can well

unnecessary. After all it appears that the total number of nominated Commissioners and the representatives of certain bodies comprises one-third of the whole number, that is 25, and I fail to see what difference it will make whether the whole of that number, 25, is left to be nominated by the Government; or whether 10 of them are elected by certain specifically named bodies, and the remaining 15 only by the Government. No objection has hitherto been raised as to the exercise of discretion by the Government as far as the commercial interest is concerned. As long as no such objection is raised, I submit it will be better far to let the whole number be nominated by the Government than to reduce the number to be appointed by Government to 15, and to leave these particular Associations to elect 10. It is quite possible that in the general elections the commercial interest may be adequately represented. In that case it will certainly be unfair that the commercial classes should have the still further privilege of electing the 10 members mentioned in the last paragraph of section 8 to the prejudice of other minorities which have an equally fair claim to representation. It would be better, in order to meet all possible contingencies, to leave the nomination of the whole number to the Government, so that the Government might be in a position to supplement the representation of the commercial interest if necessary, or to give a large proportion of the 25 nominations to other minorities, such as the Mahomedan community as occasion might require. I submit that no class of interests will suffer by allowing the whole number, 25, to be nominated by Government, whereas there is every probability of other interests suffering if the Government nominations are reduced to 15, and these voluntary Associations are allowed the right of electing 10 representatives.

The Hon. Sir Alfred Croft said:—I had very much graver doubts, when I entered the Council to-day, as to the wisdom and the desirability of introducing this clause empowering certain Associations to elect members of their own body,—much graver doubts than I have now, since I have had the advantage of hearing the speech of my hon. friend, the Chairman of the Corporation, and the reasons which he has advanced as to the necessity of strengthening the party of progress in the Municipality. The result of giving to the Chamber of Commerce, the Calcutta Trades' Association, and the Port Commissioners the right of electing 10 members will, I am convinced, be to strengthen that party which Sir Henry Harrison says so much stands in need of streng-

has been exercised from time to time most judiciously by appointing members of the different communities in order to ensure a proper representation of their interests in the Corporation. The desirability of enabling members of the Mahomedan community to take part in the municipal affairs of the town has always been recognized. Whenever the Mahomedan element has been found to be insufficient on the Corporation, the balance has been in some measure restored by the appointment of Mahomedan Commissioners by Government. The practical effect of now reducing the number from 24 to 15, the Committee apprehend, would be to fetter the hands of Government in respect to the appointment of an adequate number of Mahomedans. The Committee therefore beg to suggest the substitution of the word 'twenty-five' for the word 'fifteen' in section 7." The younger Association, the Central National Mahomedan Association, said:—"The Committee also thinks it will be expedient to reserve a larger number of nominations in the hands of the Local Government."

The HON. DR. GOOROO DAS BANERJEE said:—I will support the amendment which has just been moved on very nearly the same grounds on which the hon. mover of the amendment has based it, and for one or two additional reasons. I will first take up the latter of the two amendments, namely, that the last paragraph of section 8 be omitted. That clause provides that ten Commissioners shall be elected in accordance with rules to be framed by the Local Government—four by the Chamber of Commerce, four by the Calcutta Trades' Association, and two by the Port Commissioners. This I consider to be objectionable as well as unnecessary. It is objectionable in the first place, because it recognises by Statute voluntary Associations regarding the constitution of which there is no certain stability. Any one of these Associations may represent to-day the entire community which it professes to represent, but next year it may cease to represent that same class adequately. Secondly, it is objectionable because the recognition of three out of a large number of similar Associations would make an invidious distinction which may give rise to discontent. Thirdly, these Associations, which after all are Associations of individual members, have the right of voting through the individual members of which they consist. Therefore already the commercial interests are represented through the votes which these individual members have. And if in addition we give the right of representation to these very individuals taken collectively, we will be giving the right twice over to the same individuals. And then I submit that, that with the former of the two amendments this provision of section 8 is wholly

Now, Sir, while on behalf of the Mahomedans I am anxious that the proportion of nominated members should not be reduced, neither I nor they mean that such influential bodies as the Bengal Chamber of Commerce and the Calcutta Trades' Association should not obtain an adequate representation in the Calcutta Municipality. Calcutta owes its position among the great cities of the world to the capital and industry of its European community, and I shall not be so indifferent to its future welfare as not to desire the appointment of the members of that community to its Municipal Board, but what I object to is the policy of granting to self-constituted Associations the statutory right of election in municipalities. If such a policy is once adopted by the Legislature, it would give rise to numberless claims which Government would find it difficult to disallow. In these days when we are deluged with Associations, Unions and Societies bearing high-sounding names, it might be imagined to what end the policy embodied in the Bill would lead. I am afraid the result will be that, while Associations will monopolise the municipal franchise, the majority of the poor tax-payers will go unrepresented. Some of the hon. members of this Council might remember that when the Port Trust Amendment Bill was before it, an Association by the name of the Bengal National Chamber of Commerce came into existence and claimed the same right of election as had been granted to the Bengal Chamber of Commerce. It is not, Sir, that my co-religionists, whom I have the honour to represent in this Council, apprehend any harm to them from the influence of the European element in the Corporation, but they oppose on principle the recognition by law of voluntary Societies, the number of which is subject to fluctuation. There could be no just or reasonable ground for complaint should Government appoint as many European gentlemen as would secure a proper balance of power in the Corporation, but I am sure many Associations would grumble should some of them be singled out for the concession which the Bill contemplates to make. I will now conclude by reading a passage in the letter addressed by the oldest Mahomedan Association in Calcutta, the Mahomedan Literary Society, and a short paragraph from the letter from the younger Association, the National Mahomedan Association. The senior of them, the Mahomedan Literary Society, said:—"The Committee are of opinion that the number of Commissioners to be appointed by Government under section 7, namely 15, is inadequate. Under the Act of 1876, Government has the power of appointing 24 Commissioners, and it is well known that this power

[*Moulvie Abdul Jubbar:*]

The existing system, as it is, is by no means favourable to the interests of the Mahomedan residents of this City and the Suburbs, and the change which is now intended to be introduced will make them the greatest sufferers. The Mahomedans constitute 28 per cent. of the population of Calcutta and 38 per cent. of that of the Suburbs, but in Calcutta we have only 12 Mahomedan Commissioners and in the Suburbs 2. These figures, as they stand, do not at all show a fair proportion; and if Government had not exercised its power of nomination in favour of the Mahomedans, the number of Mahomedan Commissioners would have dwindled to almost nothing. It may plausibly be said that as the Mahomedans do not come forward and exert themselves for election, they are themselves to blame for this state of things; but, Sir, no man with a sense of self-respect would offer himself as a candidate when he has very little chance of success. The Mahomedans are the most conservative people under the sun, and often demur to receive innovations of any kind. Their confidence in Government is unshaken. They continue to believe that all public interests are safe in the hands of the Government, and they have not, as far as I know, ever asked for the privilege of managing public affairs. Government has introduced representative municipality in this country, and it behoves Government to see that the interests of the different nationalities are adequately represented on the Municipal Boards. India is neither England nor France, where the Government has to legislate for, and to attend to the interests of, one and the same nation. The Indian Empire comprehends many nationalities, notably the Hindus and the Mahomedans, and the Government cannot rightly allow an undue preponderance of one race over the other in representative institutions. Representative municipality is an exotic plant in India, and it can only flourish under the fostering care of Government. Representative municipality will not be a blessing to all unless all interests are adequately represented, and, under the circumstances of the country, Government ought to reserve in its hands ample means of removing inequalities. The masses of the people have no idea of representative institutions, and for anything that may go wrong in the management of the affairs of the Municipality, they will speak in dispraise of Government. So for the sake of its good name, if not for anything else, Government should continue to select a considerable proportion of the Commissioners. The framers of the Act of 1876 fixed the proportions of elected and nominated Commissioners after careful deliberation, and I see no cogent reasons for upsetting their decision.

The Hon. Babu Kali Nath Mitter's motions:—

That in line 1 of section 7 the word 'eighty' be substituted for 'seventy,' a that the word 'twenty' be substituted for 'fifteen.'

That in line 1 of section 8 the words 'of' and 'fifty' respectively, be omitte and that the word 'sixty' be inserted after the word 'remaining,'

were put to the vote and negatived.

The Hon. Mr. Irving's motions that:—

That in lines 3 and 10, respectively, of section 4, for the word 'seventy-fiv the word 'sixty' be substituted.

That in line 1 of section 7, for the word 'seventy-five' the word 'sixty' substituted, and that the word 'twenty' be substituted for 'fifteen.'

That in line 1 of section 8, for the word 'fifty' the word 'thirty' be substitut

being put, the Council divided:—

Ayes 3.	*Noes* 10.
The Hon. C. H. Moore.	The Hon. Dr. Gooroo Das Banerjee.
The Hon. G. Irving.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. T. T. Allen.	The Hon. Babu Kali Nath Mitter.
	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The Hon. Moulvie Abdul Jubbar moved that in line 1 of section for the word "fifteen" the word "twenty-five" be substituted. Also that t last paragraph of section 8, beginning with the words "and ten shall be electe till the end of the section, be omitted. He said:—In bringing forward t motion which stands in my name, I would, with Your Honour's permissio take up together the two amendments which I propose. They are so close connected that I think they need not be dealt with separately. Sections 7 a 8 of the Bill now before the Council have in view a change in the constitutio of the Municipal Corporation of the Town of Calcutta. At present two-thir of the members of that corporate body are elected by the rate-payers and on third appointed by the Government; but the Bill proposes to limit the pow of nomination by Government to one-fifth of the number of Commissione

the [*Babu Kali Nath Mitter.*]

the largest rates in the town. I had a statement prepared of 100 of the largest rate-payers, barring the Government, and from that statement it appears that 55 out of the 100 are Hindus, and therefore it is only right that their number should predominate in the Corporation. But from the figures I gave on the last occasion, the Council will see that at the last elections the number of Hindu Commissioners was exactly the number which the Select Committee which considered the Bill of 1875 proposed, *viz.* 27, and it cannot therefore be said now that there is a preponderance of the Hindu element in the Corporation.

Now, with reference to what has fallen from my hon. friend Mr. Irving, it seems to me that he has not in any way controverted my argument. He has not pointed out how 60 Commissioners would be sufficient to represent the different wards of the town, or how it would be adequate representation. He has fixed the number at 60, and said that there should be one Commissioner for each ward, or if there were only 10 wards, that there should be three Commissioners for each ward. But would it not be better to have only two wards, one constituting the whole of the northern portion of the town, and the other the southern portion, and have only three Hindus, three Mahomedans and three Europeans? That also would not be adequate representation, and therefore I think that it would be a retrograde measure either to reduce the number of Commissioners as proposed by myself at the number of Commissioners as proposed by my hon. friend. I increased to 80. As to the number of the Commissioners being in my opinion, be a mistake to add wards are to be added to the town, it would, add three to the present number of the Commissioners.

The Hon. Babu Kali Nath Mitter said that in clauses 3 and 10 respectively of section 4, the word 'eighty' be substituted for 'sixty,' which being put, the Council divided:—

Ayes 4	*Noes* 9.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. Dr. Gooroo Das Banerjee.
The Hon. Babu Kali Nath Mitter.	The Hon. C. H. Moore.
The Hon. H. J. Reynolds.	The Hon. G. Irving.
The Hon. the Advocate-General.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	His Honour the President.

So the Motion was negatived.

[*Babu Kali Nath Mitter.*]

The Hon. Babu Kali Nath Mitter said:—I shall try to be as brief as pc in my reply. In the first place it is a matter of regret to me that my hon. friend, the member in charge of the Bill, did not understand how I wanted to make out that because the present system has proved a success, therefore it is necessary that there should be a further extension of the elective principle. I think the answer is as clear as it can be. Previous to 1876 the system then in vogue was nomination. The Government thought fit to introduce the elective system, and if that has worked well, I think it is a strong argument that there should be further extension of that system after the experience of twelve years. In English towns it is one of election throughout; there is no nomination whatever, and that is not to be forgotten in dealing with this question. When the present system of election was introduced, it was thought proper to retain in the hands of Government powers which are inconsistent with English precedent. Then nobody grudged such retention of power. But now, as the system has worked well—and on behalf of myself and my colleagues of the elective portion of the Corporation, I sincerely thank the Hon. Mr. Macaulay for the admission that, so far as his individual opinion is concerned, he considers that the elective system has proved a success—I think that a system analogous to the system which prevails in England should, as far as practicable, be established. Then again the hon. member in charge of the Bill did not understand why I put forward the results of the last two elections. How he co' have misunderstood my intention, it is impossible for me to say. It i'd as anything can be. The point I wanted to establish is thi' as as clear the interest taken by the several nationalities, thus, that the greater Commissioners returned by them; that in' greater the number of took the most prominent interest, they wo'st election, as the Hindus representatives. Then at v ere able to return the largest number at the subsequent elections, as other constituencies ge' interest, they were able to return a larger number of members, and quently the Hindus suffered, and the use which I wish to make of facts is, that we should leave the returns to be regulated by the result ne elections. If all the constituencies in the Municipality took the est in the elections which they ought to take, they should be able to n a due proportion of members, and then particular interests would uffer. If the elected members of the Corporation had done all that the member in charge of the Bill was pleased to say of them, I think it y right and fair that their number should be further increased. They d not be told, you have done all this, still there is mistrust that if your er predominates, you will not do all

the number of nominated Commissioners. I would leave it where it is, but oppose the right of election by voluntary Associations.

The Hon. Mr. Moore said:—I rise to support the amendment moved by the Hon. Mr. Irving. I have so recently come into direct contact with Municipal affairs that I candidly confess I have no fixed principles on the subject of municipal representation, and I can therefore only be guided by the safe and simple rules of common sense which plainly point to the advantages to be derived from reducing numbers to the smallest quantity consistent with fair representation of the interests involved. I have heard no arguments to show that the reduction of the number of Commissioners to 60 would produce inadequate representation, and the strongest argument in favour of the changes proposed in the amendment seems to me to be the statement made by the hon. member in charge of the Bill that, owing to the opposition being in a majority, the motive power in the Municipality is wanting, which seems to prove that the decrease of the one class and the increase of the other, as suggested by the Hon. Mr. Irving would be in the best interests of the Municipality.

The Hon. Dr. Mahendra Lal Sircar said:—I do not understand how the motive power can be overbalanced by an effective majority. The motive power is furnished by the Legislature defining the functions of the Corporation, carrying out, which is entrusted to the Executive. The elected members would certainly watch how the functions of the Corporation are carried on. They should have the motive power in the law, and not in the sweet will of the Executive. Hence, I repeat, I cannot understand how the motive power can be wanting if the elective element is strengthened. Then as to loss of time to the Commissioners from there being too many of them speaking at meetings, I think, it must be admitted, that economy of time is not always economy of work. In the discussion of large and complicated questions, it is an advantage rather than a disadvantage to have them discussed by a larger head of by a smaller number of persons. Then, again, as to the success of the elective system that has been advanced as an argument by my hon. friend, Mr. Moore of the first amendment, I do not see how that argument has been answered by the hon. member in charge of the Bill. If it has been shown—and conclusively shown—that the elective system has proved a success, I do not see any reason why we should not have further extension. The life of the elective system depends upon a larger proportion of elected members, and the system has already proved a success, why should not the proportion of elected members be increased? With these observations, I will support the amendment of the Hon. Babu Kali Nath Mitter.

submit that that is no reason for putting aside the other considerations
which I have adverted. That one part of the constitution has succeeded
no reason for stimulating it further at the expense of the rest. It is becau
I think that the first amendment will weaken what I consider the all-importa
principle of representation that I ask the Council to reject it.

The Hon. Dr. Gooroo Das Banerjee said:—With the most earnest desi
to make concessions to the European community to secure their co-operatic
in the municipal affairs of the town, I cannot support the amendment of tl
Hon. Mr. Irving. It has been urged that the fact of the number of Commi
sioners being large, causes a long time to be consumed in discussions in tl
Municipal Board, and that this prevents able commercial men from taking pa
in the administration of the affairs of the municipality. But it should l
borne in mind that the duties of the Municipal Commissioners are not mere
of a deliberative character sitting at meetings of the Board, but their duti
should also be of an inspectional nature. A Municipal Commissioner shou
inspect the ward he represents, so that he may be able to ascertain its wan
and requirements, and for the due discharge of duties of this class the numb
of Commissioners necessary to represent a ward efficiently must be a matter
consideration; and seeing that the dimensions of these wards are by no mea
small, I submit that one Commissioner for each ward will hardly be adequa
representation. I see no force in vague, undefined speculative reasons, but
think it a most practical reason that it would not give the Commissioner sufficie
time to inspect his ward efficiently. Therefore, though on the whole a larg
number of Commissioners might entail greater sacrifice in time, on the oth
hand we have, to compensate for it, greater efficiency secured in one respec
and if the members of the European community are pleased to bear this
mind, I hope they will not grudge any additional sacrifice of time that t
number of Commissioners proposed in the Bill might entail. I may also a
that if the charge on the score of loss of time is well-founded, the members
the European community taking part in the administration of the municipali
may, by the moral force of their opinion and example, help in removing
ground of objection. For these reasons I submit that the number of th
missioners ought not to be diminished to 60. Then as regards the p
of nominated Commissioners, whilst fully sharing the sentiments ut
my hon. friend, the mover of the first amendment, that so far as is c
with other interests, the elective principle should be expanded. As I am
to the representative principle embodied in section 8 of the Bill, wh
the right of representation to voluntary Associations like the Cha
Commerce and the Trades' Association, I do not think it will be fair t

elected by the general body of the rate-payers, as proposed by the Hon. Babu Kali Nath Mitter, or one-half as proposed by the Hon Mr. Irving, be likely to attain the object in view? To take first the proposal of my friend, the Hon. Babu Kali Nath Mitter. I have read with great care the minute of dissent which my hon. friend has appended to the first report of the Select Committee, and I have listened attentively to the very able speech in which he has laid his amendment before the Council. But I cannot agree that the arguments of those who hold that the proportions proposed by my hon. friend will not secure the adequate representation of minorities has been answered. I do not think that my hon. friend Sir Henry Harrison has properly understood the object of the hon. mover of the first amendment in quoting the figures which he has submitted to the Council. I understand his object to be, not to show that the increase in the number of European Commissioners is a matter of good fortune or of evil fortune to the municipality, but to show that the strongest class do not wish to keep all representation to itself to the exclusion of other classes. But, however this may be, it is an undoubted fact that the elected portion of the Commissioners do not represent fairly all sections. It is useless to point to the gradual increase in the number of Europeans in the Corporation. The fact remains that the representation of the Hindu population, and of what I may call the non-commercial classes, largely preponderates, and I think that this preponderance should not be increased. To guard against misunderstanding, I wish to state my distinct opinion that the working of the elective system in Calcutta has been a decided success. I cannot agree with my hon. friend Sir Henry Harrison in thinking that, if we were beginning to legislate for an elective system, we might take the Hon. Mr. Irving's proposal for electing only one-half. I think that, looking to the experience we have had of the working of the system as a whole, we should be fully justified, were we in the position of our predecessors, the framers of 1876, in taking the proportion of two-thirds elected by the rate-payers. For this reason I will certainly oppose my friend the Hon. Mr. Irving's amendment. The elective system has brought forward men like my friend the Hon. Babu Kali Nath Mitter, men of ability and business habits, who have done good service to the community, and I think that all friends of Self-Government must rejoice that these men owe their positions, not to the voice of nomination, but to the suffrages of their fellow townsmen. But I

two or three times a week, and carry on business with pain on a system of reasonable compromise. The Chairman has at times to give way, and the Commissioners at times give way, and provided there is an appeal to the general meeting, with fair prospects of success, the Chairman may expect to get sufficient concessions made to enable him to carry on the work of the Corporation at marching speed if not at express speed. It is my belief that, even if we were to go so far as to have a majority of Europeans in the Corporation, we should still find that in Committee meetings the majority would be Native Commissioners. For these reasons, although there is great force in the arguments used by the Hon. Mr. Irving, I think we ought to follow the old lines as laid down in the Bill, which allow two-thirds of the Commissioners to be elected by the wards; and I therefore trust the Council will, on the fullest consideration, adhere to the proposals before them in the Bill.

The Hon. Mr. Macaulay said:—Though I cannot hope to contribute anything of value to the discussion at this stage, I consider that as a member of the Select Committee, which has framed the section in the form in which it has been presented to the Council, I should not give a silent vote when the vital question of the constitution of the municipality is being settled. And for myself I am glad to have the opportunity of explaining the apparent incongruity of voting against the amendment of my hon. friend Babu Kali Nath Mitter, which involves an extension of the principle of election, while I am myself primarily responsible for the clause of the section which will give that principle a still larger extension. Briefly, I oppose the amendment of the Hon. Babu Kali Nath Mitter, on the ground that, although it involves the expansion of the principle of election, it involve not the expansion, but the contraction, of what is much more important—the principle of representation; I oppose the amendment of the Hon Mr. Irving on the ground that it involves the contraction of both: and will afterwards support my own proposal on the ground that it involves the expansion of both. I venture to think that the different member the same end in view. Their object is a common one. It is the for a scheme under which all interests in the Town will be repr in proportion to their importance. If this object can be attained, any violent disturbance of principle on other points, by a system wl provide for election only, and will exclude nomination, I will support it. But this being impracticable, the question is, will thre

16 were to be nominated by the Government directly, and 20 by constituencies which, with the exception of the Chamber of Commerce, were under the control of the Government; probably in Calcutta also, had we 12 years ago proceeded a little more slowly, we should have made more decided and continuous progress, and parties would have been better balanced. But it is a very different thing when you have a *tabula rasa*, and when you have a foundation already laid. In the work of legislation, gradual construction on existing foundation is the safest. We have existing lines to work upon, and unless we are prepared to say that the Corporation will not work on these lines, it is undesirable to change them. I am not prepared to say that the proposed constitution is unworkable. *Firstly*, I think that there are two or three details in this Bill which would strengthen the party of progress if adopted, such as not allowing Ward No. 12 to lose its second member, and the plural system of voting. And then as regards the power of nomination, this gives a power which the Government has never used to the fullest extent. It has never so used the power of nomination exclusively to strengthen the motive power in the Corporation, and this ought to be tried before the fundamental proportions are changed. Even using the power of nomination as hitherto exercised, I am bound to say that if all the members nominated would attend the general meetings, there would be sufficient motive power to enable the Corporation to get along. Again, if I had any hope that the European members would take the same interest as the native members, I should be more disposed to yield to the Hon. Mr. Irving's argument, but I am afraid we must put this aside as really out of the question. I believe that to some extent they have been kept away from the meetings by finding that they are in the minority, but at the same time they have also found that it was quite impossible for them to give the same attention to the work of the municipality as those who have ample leisure, and to whom it is almost a pleasure. There are a certain number of leisured gentlemen amongst the Native Commissioners who have numerous two, three or four times a week to Committee meetings to do work often certainly not of transcendental interest, but the ordinary humdrum which of the municipality. Now is it possible to hope that we can get European work gentlemen, who have their business to attend to, and to whom time pecuniarily means money, to attend and take part in work of this nature? If we cannot hope for that, we must fall back upon the present lines. The Chairman must as heretofore do the work with six or eight Commissioners willing to meet him there do

the Europeans and Mahomedans became aware of the power which they possessed under these two last-named checks, and the consequence was that 1,105 European voters returned 13 Commissioners, 1,064 Mahomedans returned 8 Mahomedans; whilst 7,827 Hindus returned only 27 members. So far, well and good. The question is, has that been advantageous or not? I say that undoubtedly it has been a great advantage, and that it was one of the factors which operated to the carrying out of more work during the last few years. Does not that prove that if the Corporation is to work well, you must not have an opposition which is too overwhelming? I welcome cordially an effective opposition, but I equally contend that, if the opposition consists of more than half of the members, then the difficulty of working is greater than it should be. It is on that ground I submit that what has really been proved is exactly the opposite of what should have been proved for the hon. member's contention. The elective system has been a success as far as that it has organized an effective opposition and check to extravagance. It has failed in so far as that opposition has been numerically too strong. At first its numbers were so large that it brought every thing to a dead lock. As it has decreased, things have progressed more fairly. Consequently, I am perfectly justified in saying that it is only owing to the fact of the one-third nominated Commissioners having furnished some counterpoise to the preponderance of the opposition that the success of the Corporation has been secured, and it is hardly too much to say that this has been the hinge on which the success of the Corporation has turned. If so, what could be more erroneous than to propose that this most important factor should be weakened—that that which required strengthening should be weakened, and that which was already too strong, should be further strengthened. On these grounds I am constrained to say that it would be very unfortunate if the Council came to the conclusion that any larger proportion of the members of the Corporation should be elected by local areas.

Passing now to the opposite point of view, it is more difficult to maint ground. I do think there is a great deal of force in what the Hon. Mr has urged, and I believe a part of the greater success of the Bombay tion has been due to the greater proportion of the nominated Comm In Bombay the Corporation started with only 64 members, of whic only were elected by local areas. When the number was increased in t Bill from 64 to 72, still, as before, only one-half were to be elected

[*Sir Henry Harrison.*]

proposals for improvement. I cannot put the case more succinctly according to my own view than to say that the motive power in the Corporation has been too weak. That being so, the question is how has it been possible to work the machine. The way in which it has been possible is mainly by the Chairman first of all using his powers of persuasion and trying to induce Committees to do what he considers necessary, a course which I must in justice say very often succeeds, or appealing to a general meeting. In general meetings of the Corporation he no doubt on the whole succeeds in carrying his point more easily than in Committees, and the reason is because in general meetings there are a larger number of Commissioners disposed to support him who do not take any part in the ordinary Committee work of the Municipality. The position of the Chairman is always stronger in general meetings than in Committees of the Corporation. The difficulties which I have in my time described were much more insuperable in the earlier days of the Municipal Corporation. When I first joined as Chairman, I found the difficulty greater than it is now, and all who take an interest in municipal affairs will bear me out that there has been a conspicuous and signal improvement latterly as compared with the earlier period. To this many reasons have contributed. In the first place, the Commissioners have improved by experience; *secondly*, the proportion of Commissioners of the nationalities which were at first weakly represented has increased. The hon. member in 1876 the Hindus elected 41 out of 48 elective Commissioners before the Council the figures of four elections. He showed that when the hon. member in 1885 they were able to return only 27 out of 48. I could not define sion with which the hon. member cited these figures. I do not know whether he regarded it as a misfortune or a good fortune to the Corporation. He showed that the checks on the majority had been acting better, but had this result on the whole in benefit or the reverse; if in benefit why did he wish to diminish these checks? In 1875 three checks were designedly chosen—*first*, there was the check of the one-third of nominated Commissioners; *secondly*, the check that in the European wards a larger measure of representation was conceded than in the native wards, especially in the wards in the north of the Town. Though the European wards were smaller in population than the native wards, they were given proportionally a larger number of representatives; *thirdly*, there was the check in all the wards of the cumulative vote which were allowed to three members. It has been correctly stated that in 1882, and again in 1885,

Executive, they appeal to get the assistance of their Commissioner. This has some beneficial results; it causes some degree of self-reliance in the people when they know that they have some one to whom they can go if they do not get immediate redress. The last and most important result is this. The elected Commissioners, who had taken so much interest in the affairs of the Municipality, have themselves improved much by experience in the work. I have seen very great improvement in the tone and method and manner of doing work by the Commissioners who have become familiarised with their labours. In this review I think that I have given a very fair account of the work of the elective Commissioners, but after all said is not the *rôle* which I have described precisely the *rôle* of opposition? We all know that administrative affairs suffer where there is no check; and whether we look at the official world as it is, or recognised fact that Government as it is in England, worked by party, there is no adequate check, there is danger of work going on too fast, as there is danger of its not being as it might be. The *rôle* which the elective Commissioners for the Municipality have at once assumed is precisely that of checking, watching and criticising in every way, in seeing either that no expenditure is incurred without sufficient reason, or that projects of improvement are not undertaken which are not fully justified. They have in fact been the brake-power in the municipality. But a train cannot progress by brake-power alone, nor can a city progress by opposition alone. It is also necessary that you should have motive power, and this is precisely the one point in which the Corporation has so far been signally deficient. The motive power has been too weak, while the opposition power has been very strong. Were time of no importance I could prove this exclusively, but I hope the Council will accept my experience as a matter of testimony rather than desiderate proof. In a body like the Corporation, the Executive alone is in a position to push on the work. The Chairman therefore requires that the extremely powerful criticism and opposition which is brought to bear to his proposals should be met by an equally powerful backing up, where a sufficiently good explanation can be given of what is required to be done. Over and over again this has been wanting—the Executive Government of the Town is working with a minority, and everybody knows what a compromising position that would be. I might go through the budget year by year and show that the Chairman has to make out a very powerful case before he can get sanction for expenditure: and he is thus much handicapped in

constitution of the Corporation has proved successful, and that therefore the elective principle in it should be expanded. On this point my own belief is that most persons will form their judgment of success or failure according to the preconceived inclinations with which they regard it. Those who do not wish it well will think it has not been successful, and those who were predisposed in its favour will lead themselves to believe in its success. But I am hopeful that this difference of opinion will in a great measure disappear if we deal with the question in a specific way. I admit that from some points of view it should be considered a success. In the first place, by the elective system we have attracted to the Corporation a number of Commissioners who have taken the greatest possible interest in the work—Commissioners who have been most assiduous in their attendance at meetings, who have looked into matters with care and scrutiny such as is hardly found in any other department. They have set their face resolutely against all extravagance, they have thrown the light of discussion on every detail. In fact it has led to the administration of the municipality being carried on much more in the light of day than it would have been as far as other members are concerned. On questions of contracts and expenditure in detail they have paid an attention to the work which was hardly paid before. In the next place the system has had the advantage of bringing in a number of men who owe their position entirely to something outside Government, not to nomination. They feel that they depend for their position on those who have returned them, and who naturally look to them to represent their views, and therefore they bring with them the light of real public opinion of a certain class—a comparatively small class in numbers, but a very influential class indeed, and it has been a great advantage that we should have the opinion of a class of this kind pressed upon us, so that we know what they want and what they object to. Thirdly, we have persons who represent local areas. This has led to many good results. Previously the Town was looked upon very much as a whole, and the wants of the Town as a whole were considered. Now the desire for large improvements has increased, and the Commissioners are more interested in local wants. This has to some extent worked well, and the large increase in the value of property is in no small degree due to the way in which local improvements have been attended to. Fourthly, the elective system has been successful in that people know that they have a Commissioner who represents them, when they have a complaint, if it is not immediately attended to by the

Executive, they appeal to get the assistance of their Commissioner. This has some beneficial results; it causes some degree of self-reliance in the people when they know that they have some one to whom they can go if they do not get immediate redress. The last and most important result is this. The elected Commissioners, who had taken so much interest in the affairs of the Municipality, have themselves improved much by experience in the work. I have seen very great improvement in the tone and method and manner of doing work by the Commissioners who have become familiarised with their labours. In the review I think that I have given a very fair account of the work of the elected Commissioners, but after all said is not the *rôle* which I have described precisely the *rôle* of opposition? We all know that administrative affairs suffer [illegible] there is no effective check; and whether we look at the official world as it [illegible] the Government as it is in England, worked by party, [illegible] been proved [illegible] been, or as [illegible] as is, if there is no adequate check, there is danger [illegible] k to ognised fact that [illegible] or there is danger of its not being as [illegible] erica work going on too fast, [illegible] the elective Commissioners for the [illegible] this it might be. The *rôle* which [illegible] that of checking, watching and [illegible] s have at once assumed is precisely [illegible] penditure is incurred with- [illegible] et in every way, in seeing either that no ex[illegible]e not undertaken which [illegible] sent reason, or that projects of improvement a[illegible] ke-power in the muni- [illegible] fully justified. They have in fact been the bra[illegible] nor can a city [illegible]. But a train cannot progress by brake-power alone, [illegible] have motive [illegible] y opposition alone. It is also necessary that you should [illegible] its been [illegible] nd this is precisely the one point in which the Corporation h[illegible] ver has [illegible] t. The motive power has been too weak, while the opposition p[illegible] atentic [illegible] very strong. Were time of no importance I could prove this c[illegible] and Conclusively, but I hope the Council will accept my experience as a matter [illegible] testimony rather than desiderate proof. In a body like the Corporation, the Executive alone is in a position to push on the work. The Chairman therefore requires that the extremely powerful criticism and opposition which is brought to bear to his proposals should be met by an equally powerful backing up, where a sufficiently good explanation can be given of what is required to be done. Over and over again this has been wanting—the Executive Government of the Town is working with a minority, and everybody knows what a compromising position that would be. I might go through the budget year by year and show that the Chairman has to make out a very powerful case befor he can get sanction for expenditure: and he is thus much handicapped in [illegible] it

[*Sir Henry Harrison.*]

constitution of the Corporation has proved successful, and that therefore the elective principle in it should be expanded. On this point my own belief is that most persons will form their judgment of success or failure according to the preconceived inclinations with which they regard it. Those who do not wish it well will think it has not been successful, and those who were predisposed in its favour will lead themselves to believe in its success. But I am hopeful that this difference of opinion will in a great measure disappear if we deal with the question in a specific way. I admit that from some points of view it should be considered a success. In the first place, by the elective system we have attracted to the Corporation a number of Commissioners who have taken the greatest possible interest in the work—Commissioners who have been most assiduous in their attendance at meetings, who have looked into matters with care and scrutiny such as is hardly found in any other department. They have set their face resolutely against all extravagance, they have thrown a light of discussion on every detail In fact it has led to the administration of the municipality being carried on much more in the light of day than it would have been as far as other members are concerned. On questions of contracts and expenditure in detail they have paid an attention to the work which was hardly paid before. In the next place the system has had the advantage of bringing in a number of men who owe their position entirely to something outside Government, not to nomination. They feel that they depend for their position on those who have returned them, and who naturally look to them to represent their views, and therefore they bring with them the light of real public opinion of a certain class—a comparatively small class in numbers, but a very influential class indeed, and it has been a great advantage that we should have the opinion of a class of this kind pressed upon us, so that we know what they want and what they object to. Thirdly, we have persons who represent local areas. This has led to many good results. Previously the Town was looked upon very much as a whole, and the wants of the Town as a whole were considered. Now the desire for large improvements has increased, and the Commissioners are more interested in local wants. This has to some extent worked well, and the large increase in the value of property is in no small degree due to the way in which local improvements have been attended to. Fourthly, the elective system has been successful in that people know that they have a Commissioner who represents them, when they have a complaint, if it is not immediately attended to by the

of nominated Commissioners should be increased rather than decrease The Hon. Babu Kali Nath Mitter has been the exponent of one set opinions; the Hon. Mr. Irving of the other. I shall devote my attention, fir to the Hon. Babu Kali Nath Mitter's amendment as regards the total numb of Commissioners. The Hon. Mr. Irving was perfectly right in saying that most places the number was not so large as 75; 64 was a very usual numbe In France the normal number was 36, which was in some places enlarge owing to local circumstances. At the same time I attach very little importan to this point. I do not believe there will be any practical difficulty in workin whether the number of Commissioners be 75, or 60, or 80, because we kno that the time taken up by discussion does not depend on the total number Commissioners present, but upon those Commissioners who wish to speak: ar in a Corporation of even 40 members, the leading Commissioners would, f the most part, be returned, and these would take an active part in the discu sion as at present. I do not think that in this respect there would be an great difference in a body of 40 members, and a Corporation of 80 Commi sioners, of whom 15 or 16 would, as a rule, take part in the discussion Practically, therefore, I attach little importance to the number of the Corp ration. We only revise the work of the Committees in general meetings the whole body of Commissioners.

Next as regards the division of numbers between the different electora bodies. On this point the main argument of my hon. friend seems to be this that the elective system was introduced twelve years ago against the stron opposition of Sir Stuart Hogg, and against the opposition of a great portio of the European community, and yet it has proved a success; and if it ha proved a success, why not extend that principle? Is it not fair after the years of success to extend it? But the argument is not stated in a way t entitle it to any logical value. Suppose for the sake of argument that t elective system has proved a success, regarding which opinions are undou edly divided, what follows would be this—that a Corporation composed two-thirds elected Commissioners and one-third nominated Commissioners id done its work fairly well. From this the inference might just as logicallyon that we should increase the proportion of nominated Commissioners as th ird should increase the proportion of elected Commissioners. The real arg one derived from the admission of success is, leave well alone. But the hon. m owe no doubt means more than that. He means that the elective element ne

ire to the Europeans and Eurasians as 16 to 1, it is a certainty that the great majority of elected Commissioners will belong to the more numerous class. In the report of the amalgamation Committee at page 9, the following statement occurs: "Taking two important classes, the commercial class and the Mahomedan population, no one can fail to be struck with the very small proportion of the elected Commissioners which these return."

Without some such safeguards as are proposed, the European, Mahomedan, and other interests will be overborne to a degree which I think would be prejudicial to the interest of the whole city. Therefore, if 30 Commissioners are elected in the ordinary way, that will amply provide for the great Hindu section of the community, and will give them their fair proportion of members in the Corporation, and their proper and legitimate influence therein. More than [illegible] should not be granted, for any further concession would only be to the prej[illegible] of the other important sections of the community.

The HON. SIR HENRY HARRISON said:—I understand that we are now discussing the two questions of the number of the Commissioners, and what proportion of them should be elected by the several wards or local areas. The further question as to whether that proportion of members which is not to be elected by wards, which at present stands at one-third, should be divided as provided in the Bill into 15 members to the Government, and 10 to selected constituencies, or whether they should be appointed in any other way, is a question which will stand over for a subsequent amendment. That being the case, we find that the proposal we are now discussing of having 75 Commissioners, of whom two-thirds should be elected and one-third be nominated in some manner or other, is the one which has attracted perhaps more attention than any other part of the Bill, judging by the representations which have been received on the subject by the Council; and seeing the very large measure of attention which this question has attracted—it being no exaggeration to say that it forms the subject of one-half of all the representations which have been received from various bodies—it can hardly be considered unreasonable if we devote considerable attention to this matter. It is looked upon as the cardinal hinge of the proposed Bill. This proposal has been the subject of criticism in two directions. The British Indian Association, the Indian Association, and some other bodies, urgently press that at least two-fourths of the Commissioners ought to be elected. On the other hand, the European Associations press with equal urgency that the proportion

[*Mr. Irving.*]

Sir Henry Harrison, in his able note on the constitution of the fu Metropolitan Corporation, is very decided in his view as to the necessity retaining in the hands of Government the power of nominating one-third of Commissioners, in order to enable it to adjust representation between various classes. The additional special constituencies referred to in secti would only give the European and Eurasian communities that assurance getting their own representatives returned to which they are fully enti The Mahomedan population is also seriously under-represented, and Government nominations, if adequate, would do much to remove this caus complaint. It is undoubtedly a great injustice, in a community like tha Calcutta, that any one race or class should practically rule all the others, neither the Europeans nor the Mahomedans are satisfied with the pre arrangement.

Europeans in India should remember that superior numbers do constitute a dominant race, and that mere weight of numbers ought not entitle one class to override all others. This is strongly urged by the Euro community which I represent, feeling as they do that they are now shut from their fair share in the control of City affairs. Instead, therefore increasing the number to be elected by the general community, and enlarging the power already held by the practically governing race, it is every ground desirable that Government should have, as hitherto, the nom tion of at least one-third of the Commissioners, and that in addition to the Commissioners to be elected by special constituencies. This arrangen would go far towards securing a fair balance of representation, and would satisfaction to the most intelligent classes of the community.

Then in section 8, I propose that the word '30' be substituted for 'acing this before the Council, I must refer to section 15, where 'sed that there should be 25 wards in the enlarged town, in place of w ave proposed 15 wards, and my present proposal, if accepted, would give Commissioners to each ward. As, however, the hon. member in charge of Bill is, I understand, in favour of still fewer wards, if any change is to be m I would readily accept any modification, say ten wards with three Commissio to each. But that after all is a detail, and does not affect the main quest the number of elected Commissioners. I have already asked for a reducti the total number of Commissioners, and this carries out further that ide Calcutta, where the natives, as pointed out by Sir Henry H

much obliged to him for having done so, as it will be inconvenient to discuss that question now, and he will have the opportunity at a future stage of the Bill to propose any alteration he desires in the boundaries. Besides the amendment now before the Council, there are other amendments on section 4 in the name of the Hon. Mr. Irving and the Hon. Moulvie Abdul Jubbar. I will call upon the Hon. Mr. Irving to move the amendment No. (2) which stands in his name.

The HON. MR. IRVING said:—In moving the amendments on sections 4, 7, and 8 which stand in my name, I will briefly refer to them in their order.

The object of the amendment on section 4 is to reduce the number of Commissioners from 75 to 60. It is generally felt, I believe, that a Municipal Commission of 75 members is much too large to be effective and manageable, and that a smaller and more compact body would be better for all practical purposes. The Commissioner of this division, in his letter of the 2nd instant, remarks on sections 7 and 8: "I think the number of Commissioners may very well be reduced from 75 to 40. The object of a Municipal Corporation is work, not debate; and I think that 40 members will make a more practical working body than 75." In large towns in England a smaller number of representatives than that proposed for Calcutta is the rule. Liverpool has one to every 10,000, Manchester one to every 11,500, and Glasgow one to every 15,500 of the population, while in Bombay, taking the population at 800,000, they have one to every 11,111; whereas, taking the population of Calcutta at 582,000, 60 Commissioners would give one Commissioner for every 9,700 of the inhabitants. The proposed reduction in the number of Commissioners would tend in some measure to limit the long and fruitless discussions for which fault has been frequently, and I think justly, found with the present Commissioners, and would therefore economize time, accelerate business, and enable busy men to take a fair share in the government of the city.

Similarly, in moving that the words '60 and 20' in section 7 be substituted for '75 and 15,' I beg very briefly to state that the argumentative position as regards substituting '60 for 75' are the same as those in respect to section 4. The proposal to give the Government 20 instead of 15 appointments, or one-third as is now done, is one which commends itself to the European community generally, and inasmuch as it would enable Government to redress more effectually the inequalities of representation among various classes, it is a very desirable provision.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 4th February, 1888, at 2-30 P.M.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The Hon. G. C. Paul, C.I.E., Advocate-General of Bengal.
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. Sir Henry Harrison, Kt.
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. G. Irving.
The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Das Banerjee.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The Hon. Sir Henry Harrison moved that the clauses of Chapter II, Part I, Bill to consolidate and amend the law relating to the municipal affairs Town and Suburbs of Calcutta be further considered for settlement in n recommended by the Select Committee.

ie motion was put to the vote and carried.

s Honour the President said—On Saturday last we left off at the end of ech of the Hon. Babu Kali Nath Mitter on the proposal that the number 'ommissioners be increased to 80. The first motion in to-day's list of is that of the Hon. Dr. Mahendra Lal Sircar with reference to the es. I have been in communication with the hon. gentleman, and he rmed me that he is willing to withdraw that motion. I am

is a danger to which the Corporation should not remain open. I believe I speak the sentiments of my Hindu and Mahomedan colleagues in the Corporation when I say that they would be well pleased to have European Commissioners who take an interest in the affairs of the municipality. It is a fact well known that European gentlemen who take interest in the affairs of the Corporation are listened to with the greatest respect. Therefore it is idle to say that the Hindu or Mahomedan Commissioners would object to have European gentlemen as their colleagues. On the contrary, they are welcomed if only they take interest in the work. On one occasion Sir Henry Harrison, speaking of the elected Commissioners, was pleased to say that they generally acted in a spirit of parochialism. I very much regret that he has said so. I think his largest supporters have been amongst the elected Commissioners, and most of the important measures have been carried through with their aid. And I believe that the elected Commissioners are not fairly open to that charge. It is strange, however, that while he has said so much of the elected Commissioners, he had nothing to say as to what the nominated Commissioners have done. It is not simply that it is necessary that the Government should retain certain powers in its hands, but the object in retaining such powers should be to enable it to secure an adequate representation. It is not too much to ask you sufficiently to trust the people of Calcutta to elect those who will be able to be of service to them. And remembering that by the present Bill it will be for the Chairman to prepare a list of voters, the difficulty at present experienced of European gentlemen not registering themselves for the purpose of voters will disappear, and consequently they will be able to return a larger number of the Commissioners than as heretofore.

I have already trespassed very long on the time of Your Honour and of my hon. colleagues; but as this matter is one of very great importa I hope I shall be excused.

The further consideration of these amendments was postponed.

The Council was adjourned to Saturday, the 4th February, 1888, at 2-30 P.M.

GORDON LEITH,
Offg. Asst. Secy. to the Govt of Bengal,
Legislative Department.

CALCUTTA;
The 7th February, 1888.

Reg. No. 16677G—200—15-2-88.

On that occasion the late Hon. Kristodas Pal and the hon. member opposite (Mr. Reynolds) voted for the proportion of one-fourth, but the majority of the Council was against it. I submit that it is wise now to make the extension which was then denied. In bearing testimony to what has been done, Sir Henry Harrison on one occasion spoke of the good work done by the elected Commissioners. The point, however, in which he considered they had failed was this, that in large questions of improvement they had not come up to the point he had expected. No doubt my hon. friend, from his position in the Corporation, was able to give his views in this matter with great confidence; but I have also been in the Corporation since the elective system was introduced, and my experience on this point is at variance with that of my hon. colleague. I think all large questions of importance have been passed as much with the co-operation of the elected Commissioners as with the co-operation of the other members. I can only recall to my mind three instances where, as far as I am concerned, I believe the majority went wrong. But with these exceptions, I do not remember a single instance in which I had reason to regret what had been done. It has been my privilege to be very often in opposition to the Chairman of the Corporation, and it has been my satisfaction in many cases to find my opposition successful; but it was only with reference to three matters that I have regretted the vote of the majority. Of course it is quite possible to conceive there were occasoins in which there might have been difference of opinion, but there are many questions in which there should be no difference of opinion, and on such occasions difference of opinion is to be regretted. It is said that a great deal of time is wasted. There is no use in mincing matters, and if you will pause to consider what that means, you will come to the conclusion that it means absolutely nothing. The Town Council meets almost every Saturday; one-and-a-half or at most three hours are taken up; meetings of the general body of Commissioners are on an average twice a mo. and they occupy between two and four hours each time. If my hon. friend (Mr. Irving), who represents the Calcutta Trades' Association, will say that their constituents are not prepared to make these sacrifices, my answer then is that they ought not to have anything to do with the Corporation. I do object that members of the Corporation should, just at the time of voting, attend meetings only when personal questions or questions of great moment are to be considered, without giving any thought to the consideration of the subject, and out-vote those who have taken great interest in the matter. That

entered the lane, I found buildings on both sides of it, and experienced the greatest difficulty in recognizing my friend's dwelling. So that it is not too much to say that the affairs of the Corporation have on the whole been satisfactorily managed by the present Corporation. Testimony has been borne to this fact by the British Indian Association, and I submit that the testimony of the persons representing that Association goes a great way; they are persons who live in the northern portion of the town, and are therefore able to speak from their own experience. If the verdict on the administration of the past ten years shows that the affairs of the Corporation have been successfully managed, I say that it is only right and proper that the further extension of the elective system should be conceded, so that it might be looked upon as a mark of confidence in the Commissioners who have administered the affairs of the town. If Your Honour's predecessor, Sir Richard Temple, notwithstanding the strenuous opposition then raised by the hon. mover of the Bill, was prepared to reduce the proportion of nominated to elected Commissioners to one-fourth, it is not too much to expect Your Honour now to do so. Sir Richard Temple then said:—

"There is one point I wish to mention and to leave the decision entirely in the hands of the Council. It has been impressed upon me by the second of the two deputations which came to see me that it would give great satisfaction if, in the elective sections of the Bill, the proportion of Municipal Commissioners to be appointed by the Government should be reduced from one-third to one-fourth. I have just received a letter from the Chairman of the Indian League, which presses upon me the same view as that which was urged by the very large deputation to which I have referred. That deputation comprised many gentlemen of rank, wealth and station, besides the members of the Indian League, and they certainly urged the point very much upon my attention. I understand that they attach very great importance to it. I myself do not see it in the same light. It does not very much matter whether the proportion of nominated Commissioners is one-third or one-fourth, as far as the Government is concerned; it is not a point on which the Government is particularly interested. Certainly the Government has no desire to obtain the power of appointing members who would be, as it were, Government nominees; that is not the object with which the section has been introduced. The object of the Council in introducing that section is this, that in the event of the elections not sufficiently representing certain sections of the community, particularly the Mahomedan section of the community and the European section, the Government should have the power of redressing the balance. It was for the purpose of this redressing of the balance that the proportion of one-third was taken. I am myself so far sanguine that the elections will on the whole nearly represent the different sections of the community, that I am quite willing to reduce the proportion from one-third to one-fourth if that shall be the pleasure of the Council."

not try to work it out properly. Until they really take an interest in the elections, they cannot expect to be elected. At the last elections, to the credit of the Health Society it should be said that they were able to persuade 1,100 persons to register themselves as voters, and the inevitable result was that the number of Commissioners of other nationalities rose from 11 to 13. In the Bill which was introduced in 1876, the Legislature intended to fix the number and proportion of Commissioners in the following way. They intended the number of Hindu Commissioners to be 27, of Mahomedan Commissioners 9, and of other nationalities 18, and 18 were to be appointed by the Government, of whom Hindus and Mahomedans should be 9, and 9 should be appointed from other nationalities. That was how the Select Committee of the Council settled the Bill in the first instance. It was pointed out then that that would introduce a very individuous distinction in the law and was not necessary. Sir Stuart Hogg was violently opposed to the introduction of the elective system, and it is an unfortunate coincidence that Sir Henry Harrison is also violently opposed to the expansion of that system. I hope the majority of the Council will oppose Sir Henry Harrison on this occasion, as they opposed Sir Stuart Hogg then, and I have no doubt that a few years experience will show that Sir Henry Harrison has made a mistake.

Agitation has been raised from time to time against the administration of the town by the Corporation. It was said that the wants of the town were not attended to, to the extent that they should be. It was further stated that the Hindu Commissioners who took a paramount interest in the affairs of the municipality had proved themselves obstructive, and that but for them many other things might have been done. This was a matter on which I must use some delicacy in speaking; but if the reports of the Army Sanitary Commissioners for different years are looked at, I should not have the least hesitation in saying that persons capable of understanding these matters will give their testimony in favour of the Corporation, and not against it. If an Englishman who had been through the northern portion of the town 12 years ago saw its condition now, he would be amazed at the improvement which has since been made. There are in fact parts of it which it would be impossible for him to recognise now. I myself had occasion lately to see a friend living at a place near Sukea's Street. When I first went to the place a few years ago, there were large areas there without any buildings, except here and there some huts. But to my surprise when I, the other day,

No. 12 the last member elected was Mr. Hallett, and if instead of two Commissioners in this ward we had 3, one European Commissioner would certainly come in. The last member elected in ward No. 13 was Dr. Chambers, and again in ward No. 15 Mr. Chick had come in; in ward No. 16 Mr. Doucett, and in ward No. 17 Mr. Gore Brown. So that in these five wards you would be able to elect one of the other nationalities to make up the number. The objection which might possibly be taken is that, in some of the wards, such as 1, 3, 5, 7 and 9, Hindus would come in. But in the other wards 12, 13, 15, 16 and 17 other nationalities would come in. So that my proposal does not in the least affect the interests of the other nationalities. The number of nominated Commissioners should be fixed at 20, that is to say, one-fourth of the whole number. I know that the hon. member in charge of the Bill is very much opposed to this reduction. He thinks that the interests of minorities would be very much affected if there was a reduction of five in the number of nominated Commissioners. On the contrary, I shall show that it will do nothing of the sort. If the Council would look at the returns of the four elections which have taken place, the fact will be as clear as possible. When the elective system was first introduced, the number of Hindu voters was 4,556, the number of Mahomedan voters 289, and of other nationalities 199. That showed that the other nationalities took no interest in the elections. The Hindus in the first election returned 41 members, the Mahomedans returned 3 members, and the other nationalities 4. In the next election in 1879 the Hindu voters numbered 6,025, and yet the number of Hindu Commissioners returned was reduced to 39, the Mahomedan voters increased to 604, and kept the same number of Commissioners, the other nationalities advanced to 377, and returned 6 members. Did that show that the other nationalities took any interest in the elections of 1879? Then in 1882 the Hindu voters numbered 9,194, but returned only 32 members; the Mahomedan voters were 1,057 and returned 5 members; other nationalities had 1,363 voters, and returned 11 members. In 1885 the Hindu voters were 7,827, and returned 27 members; the Mahomedans were 1,064, and elected eight Commissioners, and the other nationalities mustered 1,105, and returned 13 Commissioners. Does not this show conclusively that in proportion as particular communities took interest in the elections they were able to return a larger number of Commissioners? I do not think that 1,105 voters is anything like the largest number which these other nationalities can muster. I believe that number could be multiplied manyfold. It seems to me that the system of elections should not be condemned by those who do

has hitherto been found impossible, for reasons which are only too well known, to induce a sufficient number of such men to come forward." What those obvious reasons are perhaps we shall be favoured by the hon. member on my left (Mr. Irving), but the reasons are not obvious to me. On the contrary, I shall be able to show that there has been little or no interest taken by this body in returning members to the Corporation. They go on to say: "But it now behoves the Government, in view of the strong conviction which exists in the minds of the European community that their interests should be effectually safeguarded, to enact a municipal law that shall make it possible to introduce into the *personnel* of the new Corporation a fair proportion of European Commissioners. The numerical strength of the Corporation, as laid down by the Bill, is the next point to which the Committee desire to invite the attention of His Honour the Lieutenant-Governor. They are still of opinion that a body of seventy-five Commissioners will be unnecessarily large, and would therefore suggest that the number be limited to sixty." I would also point to the letter of the Secretary to the European and Anglo-Indian Defence Association. They complain of there being no adequate European representation, and they give a schedule showing how they would like to see the Commissioners elected. They say that wards 17 and 18, with a population of 11,000, should be amalgamated and should return 2 Commissioners, and that wards 1 and 3 with a population of 51,000 should have 2 members; that wards 15 and 16, with a population of 16,000 should have two members, and that wards 2 and 5 with a population of 62,000 should have only one member. If this is adequate representation, the number of Commissioners can no doubt be reduced, but to my mind this is anything but adequate representation. My proposal is that, with the number of 75, the nominated Commissioners be fixed at 20, and that 60 be distributed amongst the wards. Wards Nos. 1 and 3, 5, 7 and 9, 12, 13, 15, 16 and 17 should return three Commissioners each, and the remaining wards two Commissioners each. There would be this advantage that wards 12, 13, 15, 16 and 17 having three Commissioners each would each be able to return one member of other nationalities, and you would thus have five more members of other nationalities elected than if the Government instead of nominating 15 Commissioners would nominate 20. There might be five more Commissioners who would be Europeans, and these ten Commissioners would not be either Hindus or Mahomedans. I would be so there could be no doubt. At the last election in ward

into law. Then the question of numbers was very fully discussed, and as a compromise 72 Commissioners were ultimately agreed to. There was a proposal to fix the number at 60, but that proposal was negatived. At present the town is divided into 18 wards, in some of which 3 Commissioners are elected and in others only 2. If the number of Commissioners stands at 75 as proposed in the Bill, the inevitable result of dividing it into 25 wards, unless my qualifying amendment is adopted, will be that each ward will return 2 members. On this subject we have had several representations submitted to the Council. There are representations in favour of my amendment, and there are also representations against it. The British Indian Association urged that the number should be fixed at 80. They say: "Bearing in mind that the Suburbs will contribute 7 new wards to the town and that two representatives for each of them would give an addition of 14 to the present number of 72, the total should be 86, but as slight reductions in some of the smaller wards will not be objectionable, the Committee would fix the total at 80." That is the figure I propose should be fixed. The Indian Association also fixes the number at 80. Again, the Corporation of Calcutta in discussing this Bill said: "The Commissioners have recommended 90 as the number." As far as I have heard the hon. member in charge of the Bill on the former occasions on which he addressed the Council, I understand he will have no objection to 80 Commissioners, because they would act as an appellate body before whom all questions of importance will be discussed. So that on the question of convenience or inconvenience, I do not think there will be any great inconvenience if the number is increased from 75 to 80. It would only be a difference of 5, but it will have great importance attached to it. Then, as I have said there are representations against the number of 80. The Chamber of Commerce say: "But the Committee believe that experience has shown the present to be an unwieldy number of representatives, and they would support the suggestion that the number of Commissioners should be reduced rather than increased." There was also a representation from the Calcutta Trades' Association, and in the 7th and 8th paragraphs of their letter they discuss this question. They say: "In thus advocating the due recognition of the claims of the European community, the Committee of the Association are actuated by a desire to secure for the future municipality of Calcutta the services of a number of men eminently qualified to take part in the municipal government of the city. It

and ask that they be declared to be within the limits of the town? Why should not the administration of these docks be confided to some other municipality than that of Calcutta? Why so heavily burden the Calcutta Corporation with it? I support the amendment so far as the definition of the limits of Calcutta goes, but I oppose the reduction of the number of wards.

The Motion being put, the Council divided:—

Ayes 2	*Noes* 11.
The Hon Dr Gooroo Das Banerjee	The Hon. C. H. Moore.
The Hon. the Advocate-General.	The Hon. Dr. Mohendralal Sircar.
	The Hon Babu Kali Nath Mitter.
	The Hon. G. Irving.
	The Hon Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft
	The Hon Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H J. Reynolds.
	His Honor the President.

So the motion was negatived.

The Hon. Babu Kali Nath Mitter said:—My amendments Nos. 6, 11, and 16 are so intimately connected with each other that I shall move them together. They are as follows:—

That in lines 3 and 10 respectively of section 4, for the word "seventy-five" the word "eighty" be substituted.

(11). That in line 1 of section 7, for the word "seventy-five" the word "eighty" be substituted; and that for the word "fifteen" the word "twenty" be substituted.

(16). That in line 1 of section 8 the words "of" and "fifty" respectively be omitted, and that after the word "remaining" the word "sixty" be inserted.

For the purposes of the present discussion, I shall assume that the boundaries proposed in the Bill are the boundaries, or something substantially the same. That being so, the present town will have an area of 12 square miles added to it. The present Corporation consists of 72 members, of whom 24 are nominated and 48 are elected. The Bill under which the present constitution was conferred was introduced in 1875, and took fully two years to pass

The HON. SIR HENRY HARRISON continued:—On that understanding I must certainly ask the Council not to accept the amendment now before it. It would mutilate the amalgamation scheme. By the line which the hon. member has drawn, Calcutta will not extend to the south of Tolly's Nullah; consequently Alipore, Kidderpore, Watgunge, and the whole of Garden Reach will be omitted. By the hon. member's scheme we would go to the head of the docks and there stop. Such a policy would be suicidal. What is most necessary is that the Municipality should have the opportunity of watching over and regulating the formation of those blocks of houses which must inevitably spring up around the docks. As far as the Port Commissioners are concerned, there can be no doubt that everything will be done with proper attention to building regulations and their surroundings, but outside that limit there is a certainty that houses will spring up in a miscellaneous way, and it will be found impossible hereafter to arrange and group them in proper order of streets. The building regulations we are now proposing will prevent in the future the chaotic manner in which houses are now springing up in the town, and these regulations should in the localities surrounding the docks be enforced *ab initio*. It would, therefore, be a matter of the greatest inconvenience if the docks are not now brought within the limits of the town. The difficulty of fixing the best boundary lies in this, that it is impossible to fix a good line, consistently with the inclusion of the docks, which does not take in some agricultural tracts. If any better line can be found, I shall be very glad to accept it; but allowing for the connection of the docks with Sealdah, the Select Committee as at present advised cannot find any better line. The opening of the docks will certainly bring a considerable population to their neighbourhood. When I was in Bombay three years ago, I particularly enquired how the difficulty of dealing with rural lands was got over, and I was informed that there was no difficulty. The lands being assessed at a low rate paid but little, and the advantages in the way of roads and lighting were found sufficient by way of return for the taxation levied on it. In conclusion, I would say that to accept this amendment, by which the docks, with Kidderpore and Watgunge, would be outside the town, would be altogether erroneous.

The HON. DR. MOHENDRALAL SIRCAR said:—I cannot understand why the Kidderpore Docks should be brought within the Municipality of Calcutta. Suppose that after a time another system of docks may be necessary and actually established outside the new limits, should we come to the Legislature

borne in mind, as my amendment implies, that power is left in the hands of the Local Government to alter the boundaries from time to time If the docks after their completion should happen to require more efficient municipal administration than the Suburbs can pro de, there will be no difficulty in the Local Government ordering the limit the town to be altered so as to include the docks, and at the same time to include the large non-urban area now proposed to be taken. There me difference between fixing the boundaries by Statute and fixing them by o of the Executive Government. The Executive Government may, through the agency of any municipality or other convenient agency, have roads laid out which may serve as a boundary. For the present that has not been done, and I think I am right in saying that a good portion of the unnecessary area that has to be taken up is being taken up because in no other way can a convenient boundary be obtained which would be consistent with the inclusion of Kidderpore and the docks. The Executive Government will be under no similar difficulty. It may have a road laid out, so that the Kidderpore Docks may be brought within the limits of the town without including any non-urban tracts. I submit that all that can be desired under the present state of things may be done if my amendment is accepted.

THE HON. SIR HENRY HARRISON said:—I understand that the question we are now discussing is not what the limits of Calcutta should be, because it is possible that the Select Committee or some member of the Council may yet see their way to move a modification in the boundaries now shown in the Bill which it may be right to adopt with advantage. What is now proposed is a most radical modification which would entail the reduction of wards from 25 to 21. The effect of rejecting this amendment will be reject the hon. member's boundary, and leave the whole question of the boundary to be settled hereafter. It is very inconvenient that the Council have before it a proper map which every member may refer to, but the notice of amendments has only been circulated within the last 24 hours. I think therefore, I am right in assuming that if the amendment be rejected, the question of boundaries will still remain open to be finally settled when we proceed to Part I of the Bill.

[HIS HONOUR THE PRESIDENT remarked that the rejection of the amendment before the Council would certainly not prevent the Select Committee from altering the definition of "Calcutta," or any member of the Council from proposing a new amendment when the question comes before the Council.]

there, very sparsely distributed, and portions which do not by any means require any complicated system of Municipal conservancy. The proposed boundary then is not necessary for the purpose. But the matter does not stop here. It is not only unnecessary, but it is likely to prove injurious to the efficiency of the Municipal administration of the Town. When you take in the really urban tracts, you relieve the Suburbs of some burdens which the Suburban Municipality is not well able to discharge, and though you throw additional burdens on the town, you give it a good return in the shape of rates and taxes. But by taking in the outlying tracts you add to the burdens of the town, without giving any adequate compensation from such portions in the shape of additional taxation. Further, the proposed scheme of amalgamation will give rise to hardship, injustice and discontent, for whilst you tax the people uniformly all round, you cannot conveniently do for the larger area what you may do for the smaller. If you take only the limited area which I suggest, there will not be that difficulty in giving the additional area the municipal advantages which the present town enjoys that there will be if you take in the whole of the area proposed by the Bill.

I shall follow the suggestion thrown out by the hon. member in charge of the Bill, and weigh the relative conveniences and inconveniences of the two proposals in order to strike a balance. I know it may be said on the other side that my scheme leaves out Watgunge and a portion of Kidderpore in the south, which are of an urban character and are thickly populated; that it also leaves out the docks which require more careful and more efficient municipal administration. It is true that my scheme leaves out these two parts, and errs by taking in too little; but the other scheme errs by taking in too much, and the question is on which side is the balance of convenience? I venture to think that there is a natural presumption in favour of the existing order of things. It has not been shown that Watgunge is in the same bad condition as Entally, and the portion of the Suburbs between the Circular Road and the Circular Canal, and the burden will be on those who say that it is necessary to take in these additional areas also by reason of their dense population. Then, again, there is an obvious objection that this measure takes in areas which evidently ought not to be taken in. I have also the advantage of having a practically more convenient boundary as compared with the boundary proposed by the Bill. On the whole, therefore, the balance of convenience is on my side. And then it should be

road meets Tolly's Nullah, thence along the eastern and northern banks of Tolly's Nullah to the river Hooghly, and thence along the left bank of the Hooghly to its junction with the Circular Canal, or by such other limits as the Local Government may, from time to time, fix according to the provisions of this Act; but not—

(*a*) Fort William,

(*b*) The Esplanade,

(*c*) That part of Hastings north of the south edge of Clyde Row which has hitherto been excluded from the Municipality of the Town of Calcutta."

The meaning of this amendment in other words is this, that with the limited area indicated above, the number of wards should be 21 instead of 25. The boundaries of the new town ought to be defined in one of the definition clauses of the Bill, as in the above amendment. Before proceeding to explain my objection against the boundary given in the Bill, and my reasons for proposing the boundaries which I suggest, I ought to point out to the Council what the proposed boundary includes, and what the boundary indicated in my amendment is. [The hon. member here exemplified his amendment by reference to a map.] At a glance the Council will see that the boundary proposed in the Bill is by no means a convenient practical boundary. It has a rugged edge all along the Suburbs, whereas the boundary I propose adopts the Circular Canal in the north and its counterpart, Tolly's Nullah, in the south, and the intermediate boundary is much less rugged and is almost straight. If the amalgamation scheme is to be carried out at all, it is only on the ground of the sanitary improvement of the Suburbs, and because the more efficient Municipal administration of the Suburbs requires it. One can understand that there is reason in insisting on incorporating the urban portions of the Suburbs, those portions which are more thickly populated than the rest and which require more efficient arrangements for conservancy, and more efficient Municipal administration in other matters, than the remaining portions. Therefore, as far as the area of the thing goes, it only requires the incorporation of the really urban portions of the Suburbs. Does the proposed boundary in the Bill include that only, or does it not include a great deal more? I do not wish to be hypercritical, but taking a broad view, I say that it includes the greater portion of the Suburbs which we must agree to accept, but there are other large portions which are not at all of an urban character. In the south and south-west the proposed boundary includes large areas scarcely of an urban character; areas in which there is hardly a *pucca* building, except a few garden-houses here and

First in reference to the water-supply; it is true that the measure has not been carried out as quickly as it ought to have been. It took a long time and has not been completed yet, but the reason was because there was the amalgamation scheme before the Council. If the Suburban Municipality is allowed to continue, and the amalgamation scheme is given up, the water-supply will now be carried out without any further discussion or delay. As for differences arising in future, they might be provided for by a short Act providing for the appointment of statutory arbitrators who would decide on matters of difference between the Calcutta and Suburban Municipalities. If such a measure were passed, in future matters which required co-operation between the two municipalities would be arranged without any great difficulty.

The Motion being put, the Council divided :—

Ayes 2.	*Noes* 10.
The Hon. Dr. Gooroo Das Banerjee.	The Hon. C. H. Moore.
The Hon. the Advocate-General.	The Hon. Babu Kali Nath Mitter.
	The Hon. G. Irving.
	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	His Honor the President.

So the motion was negatived.

The Hon. Dr. Gooroo Das Banerjee moved that the following definition be substituted for the definition of "Calcutta" in section 3 of the Bill; and that in lines 3 and 6 respectively of section 15 for the word "twenty-five" the word "twenty-one" be substituted :—

"'Calcutta' includes the area enclosed by the following limits, namely—

the southern and western bank of the Circular Canal from the river Hooghly to the northern side of the Eastern Bengal State Railway bridge, thence along the northern and western edge of the said Railway line, and of the Railway line joining it with the South-Eastern State Railway line, thence along the western edge of the South-Eastern Railway line to the point where it meets the Tiljullah road, thence along the southern edge of the said road to its junction with the Ballygunge Circular Road, thence along the southern and western edge of the Ballygunge Circular Road to the point where it meets the Puddopoker road, thence along the southern and western edge of the Puddopoker road and along the southern edge of the Pakoortollah and Chaoolputty road to the point where the last-named

under the circumstances amalgamation is a necessity, and that the objections against it are more than outweighed by the reasons in favour of it.

The HON. DR. GOOROO DAS BANERJEE said in reply:—The hon. member in charge of the Bill told the Council that I did not very clearly distinguish between what I implied by a sudden and forced change such as the Bill involves, and my concession that the Suburbs urgently needed improvement. I admit that the urban portions of the Suburbs require improvement, but the improvement which is required is only of a sanitary nature. Amalgamation with the town means that the town rates should be levied, as, for instance, the lighting rate, which is by no means essential to the sanitary improvement of the Suburbs. Here is a distinction. The people are poor, still they ought to pay for the sanitary improvements urgently required, but they need not pay the lighting rate as an urgent necessity; as regards lighting, they can afford to wait for a few years. There are other matters of detail in taxation which may be adduced in illustration, and if the amalgamation scheme did not involve an uniform rate of taxation all round, but allowed of varying rates of taxation according to the wants of particular localities, I would not object to the amalgamation scheme. Another point to which I have to refer is the very comprehensive nature of the scheme. It was remarked that the inclusion of the whole of the Suburbs within the town will make it impossible for the poor residents of the Suburbs to go away from the town area. That makes the hardship all the greater: you crush the poor and make it impossible for them to find a place where they can go to escape the taxation. If it were really so, the hardship would be greater, but in truth the hon. member in charge of the Bill is not so hard as that, as he leaves ample space for the poor to go to and to create crowded and filthy bustees in. I refer to what is known as the island area, the area between the Circular Canal and the new canal, which is left out of the scheme. That is by no means a very convenient locality for purposes of habitation, but the poor will go to it and create crowded and filthy bustees there. It was remarked that whilst I pointed out objections to the scheme, I did not show how the necessary improvement would be effected, and it was very forcibly argued that the water-supply and other matters requiring co-operation between the municipal administrations of the two areas are measures which cannot be conveniently carried out unless the whole area is placed under one administration. The difficulty, however, is not insurmountable.

available every year to expend on the Suburban area than at present. Here is some tangible scheme of improvement put before the public. By uniting all these Suburbs under one authority, and having 5 lakhs available more than at present, the Suburbs no doubt can be improved. Can they under any other system, if so, what? As to the objection that the Act would involve the introduction of the underground drainage in the Suburbs, there is nothing in the law to provide for this. It was a matter which would be left to the consideration of the Corporation. If it was not wise, why should not the hon. member raise his potent voice in the Corporation of which he was so distinguished a Member to object to the scheme being extended? A most important question for the new Corporation would be whether the underground drainage should be extended to the entire Suburbs or only to a portion of it, and it was very likely that a portion of the Suburbs would be included within the drainage system; but that was a question to be considered under the Act and not an objection to the Act. The next objection was that the taxation would be doubled, and that this would drive the poor people outside the limits of the new town. That would be an objection which might be held if the limits were very narrow, but the limits we propose are so large that I am inclined to think that these poor fellows will have nowhere to go, consistently with their work in Calcutta, outside those limits. I hope that, so far from harassing these men, they will be less harassed by taxation than before, for special provisions are introduced to keep them and the tax-payers apart. As regards taxation, the objection cuts at the root of all improvement which costs money; without increased taxation where is it to come from? If it comes from the Government it means taxation in some other quarter, and it will be hard to show any reason why the people of other places should be taxed to improve the Suburbs. If the Suburbs are to be improved they must pay for the improvement, as it would be impossible to do it without raising taxation. I think that the argument that the Suburbs will suffer is the least well-founded which can be adduced, because the whole outline of the scheme is the benefit of the Suburbs at the expense of a free gift from the Government. Government is giving up more than 3 lakhs annually, and this sum is to be devoted to the improvement of the Suburbs. So that it really comes to this, that Government is making a present to the Suburbs of some 3 lakhs, to which the condition is attached that it shall be put under a better administration than that which it now has. Therefore I am bound to submit that

materially damaged by the works carried on there by the Calcutta Corporation in the neighbourhood of their eastern boundary. We naturally have mainly looked to our own interests in the operations which we have carried out. It is true that the health of a portion of the Suburbs has been damaged by the operations near the Salt Lakes, then, obviously, it is only when they belong to us that their complaints will command our attention. It is extremely important that the Suburbs outside Calcutta in its restricted sense should have a proper system of water-supply and drainage under the control of an efficient Municipal body, and these improvements are far more likely to be effected by an Act of this kind than if they are left to a body like the Suburban Commissioners, whose jurisdiction extends from Chitpore on the north to Garden Reach on the south, with a large intervening area which is included in the town. The hon. mover of the amendment has admitted that the Suburbs stand in need of improvement, but he protests against the sudden improvements which are to be forced upon them under this Act. I wish I could anticipate any probability of sudden improvements. I am afraid it will be a question between gradual improvements if the Act is passed, and the entire absence of improvements if the Bill is thrown out. I was moreover disappointed that the hon. member did not show how his gradual improvements are to take place. He speaks of contributions from the Government and from the Town Corporation, and this is precisely what the Bill proposes to do. The Government proposes to remit the police rate, which will amount to some 3 lakhs annually; and the municipality will no doubt contribute in many ways by the assistance and supervision of their officers, who will give part of their time to the work. It can hardly be said that the Suburbs have an efficient Health Officer or Engineer at present. The Government will give assistance, but is it not natural that when the Government gives its assistance it should be desirous of giving it to a more organised body than the present one? So that, so far as assistance is concerned, it is precisely what it is now proposed to do. The general conception underlying the Bill is that the Calcutta Corporation should be placed in funds to the extent of 3 lakhs more than they now have at command yearly, and that this amount should be devoted to the improvement of the Suburbs. Also that the Suburban taxation should be raised to the Calcutta limit, on the understanding that the extra taxation shall also go for their benefit: thus on the whole it may be said that 5 lakhs more will be

or typhus character; and I am afraid that by extending this system to the Suburbs, we shall be gradually converting that vast area into a most prolific source of disease of the typhoid and typhus character. On simple sanitary grounds, therefore, I am obliged to oppose the amalgamation of the Suburbs with the present city. If you can possibly exempt the Suburbs from the extension of the underground system of sewerage, I may have no objection to the amalgamation.

The Hon. Sir Henry Harrison said:—I suppose the Council will expect me to say a few words on this amalgamation scheme which lies at the root of the entire Bill. I admit that the hon. mover of the amendment has adduced many strong and important reasons for his amendments, he has shown many difficulties in the way of amalgamation; but at the same time it seems to me that what he has not done is just what the Council must do, viz., that he has not weighed the reasons for and against amalgamation, and shown to us how the reasons for the amalgamation are either in themselves insufficient or can be met in any way. Fundamentally the reason for the amalgamation is the manifest inferiority of the health of the Suburbs compared with that of the Town. It is perfectly true that he referred to that later on in his speech, but it will be desirable if I state it to the Council in a few words. The ordinary death-rate of the Suburbs as compared with that in the Town is as 3 to 2. The death-rate in Calcutta itself is very high, but if we deduct from that rate the deaths from ordinary causes not zymotic, we then come to the death-rate in Calcutta from preventible diseases, which is about 14 per mille against a death-rate in the Suburbs of something like 30. That means more than 2 to 1. Something must be done to remedy this; but the moment we approach questions of improvement, such as the extension of the water-supply, the influence of the Salt Lakes, and other conservancy measures either in the Suburbs or in Calcutta, we are met by the difficulty of co-operation or effective control on the part of the Suburbs. The Hon. Babu Kali Nath Mitter has not in any way exaggerated the breakdown of the Suburban Municipality in the matter of the extension of the water-supply. I do not think it possible that the same source of water-supply can be utilized by two bodies whose interests are different; and as regards the Salt Water Lakes it is alleged by the Suburban Commissioners and by some other people who take an interest in sanitary matters, that the health of the Suburbs has been

ever. Therefore it seems that the general principle of having one body to administer to the wants of this vast area will be decidedly beneficial. No doubt a very large area is going to be added, but my hon. friend forgets that the area of the Bombay Municipality is 27 square miles or thereabouts, and of the Madras Municipality 21 square miles; why, then, the metropolis of India should be confined to an area of 7 square miles I cannot understand? Of course the question of finance is a very serious one, and ought to be considered in all its bearings. The only definite relief which the Government proposes to give in favour of the Corporation will go to a great extent to all that is necessary. But a still further sum will be needed. Therefore here is a proposal that the Commissioners should be authorised to raise a duty on petroleum, and it will be unfortunate if that proposal is eliminated from the Act. The object of this amalgamation is to take in the urban portions of the Suburbs. It is very desirable that the urban portions of the Suburbs, which to all intents and purposes are at present little towns, such as Entally, Bhowanipore and Kidderpore, should be brought within the town limits; instead of having all these small towns in different directions, it would certainly be better to have one large town. The death-rate of the Suburbs is appalling, and the town to some extent suffers from it. Of course I know that you cannot go on increasing the area of the town for ever, and there must be a Suburb beyond the line we propose to take. But when you find that small towns are springing up in the Suburbs, areas which should properly be part and parcel of the metropolitan city, they ought to enjoy the same benefits which the town proper enjoys. On these grounds, I am sorry I cannot support the amendment.

THE HON. DR. MOHENDRALAL SIRCAR said:—In addition to the reasons advanced by the hon. mover of the amendment, which are entitled to great weight, I oppose the proposed amalgamation on sanitary grounds, the very grounds on which an amalgamation is sought. By amalgamating the Suburbs, or at least the very large portion of the Suburbs contemplated by the Bill, we shall be compelled to extend our underground system of drainage which includes sewerage into this vast area, and I must say that I contemplate with horror such extension and multiplication of our underground sewers. Already the underground sewers were having a most baneful influence on the health of the town. Disease generally, and fevers in particular, were becoming more virulent than they ever were before, assuming year after year more of a typhoid

benefited, they would not pay the same rates as the town. I therefore recommended that certain parts of the Suburbs be amalgamated with the Town so that the measures which the Chairman proposed might be given effect to. That amendment of mine was carried, and that, so far as the Corporation of Calcutta is concerned, is how the matter was disposed of. Therefore I consider myself pledged to support this measure of amalgamation. I was also a member of the Committee which the Government was pleased to appoint to consider this matter, and in that Committee I also gave my assent to this proposal. I did so after the fullest consideration, and I am not prepared now to withdraw from that position. I think it is a deplorable state of things that a person living on one side of a road should not have the same advantages which persons on the other side of the road enjoy; that, although to all intents and purposes the former are members of the town proper, yet as far as sanitary and other measures are concerned, they do not get the same benefit. That is the strongest argument for amalgamation. Then again my hon. friend, the mover of this amendment, forgets that the Government is going to relieve the Corporation of Calcutta from contribution to the Police Fund. That will amount to about $2\frac{3}{4}$ lakhs of rupees, and this sum will enable the Corporation to raise by loan large sums of money which will certainly bring about a decided improvement in the area to be added to the town. I believe that as far as the Commissioners of the present Corporation are concerned, they will be obliged to devote this sum to the improvement of the Suburbs. Therefore, there will be this additional fund at the disposal of the new Corporation should the amalgamation take place. My hon. friend seems to be under the impression that the sanitary condition of the Suburbs will not be improved by the amalgamation. I, on the other hand, hold a totally different opinion. I think that if there be one body mainly responsible to look after the affairs of the Suburbs and the Town, it will be bound to look into the wants and grievances of every inch of ground entrusted to its care; whereas if you have different bodies they will be guided by their own interests, and not look to the benefit of their neighbours. In illustration of this, I would refer to the question of the water-supply pending between the Suburbs and Calcutta. Although a certain arrangement had been come to, pipes had been laid down, and the Commissioners of Calcutta had done everything for the Suburbs which they had undertaken to do; yet the completion of the scheme, as far as the Suburbs is concerned, is as distant as

not enjoy the means of living in a style such as the majority of the residents of the town, they must necessarily fall easy victims to disease. Death must create greater havoc amongst the poor than amongst the wealthy. Therefore poverty must be remembered being one of the factors in the case, and so far as it is a factor the Suburbs cannot be improved unless the condition of the residents is improved. Then there is another matter to be borne in mind. The newly constituted municipality has hardly yet had a fair trial. The Suburban area is being divided into tolerably manageable wards, and the constitution of the Suburbs placed on a popular and broad basis. If it is allowed to have a longer term of trial, and if, as the Government of India suggest, power is given to the Government by this Bill to alter the limits of the municipality from time to time, the existence of this power in the Local Government will produce a most wholesome influence on the municipal administration of the Suburbs, and will make the Suburban Municipality strain every nerve to effect improvements, for they will find that necessary to ensure their own existence. If in addition to this they have aid from the Government, and if the Calcutta Corporation augment the income of the municipality by occasional contributions in accordance with an amendment which I shall have the honour to move in its turn, under these favourable conditions the Suburban Municipality may produce the desired effect, slowly though it be, yet surely; and then, as I suggest, if power is vested in the Local Government to alter the limits from time to time, the ultimate remedy, viz. amalgamation, may be resorted to if all this fails, and then without its being open to objection. Then nobody will be able to say that the Suburban Municipality has not had a fair trial, or that the people of the Suburbs have been subjected to taxation without necessity. No one will feel the inequity of the measure, and the people will submit without opposition. Until, however, the Suburban Municipality has had this fair trial, I submit that the forcing of this measure will be attended with hardship, either real or imaginary; and in either case it will give rise to discontent, which ought to be avoided as far as possible.

The HON. BABU KALI NATH MITTER said: In this matter I am in this position, that I am to a certain extent responsible for the introduction of this measure, because when the Chairman of the Corporation proposed to make certain modifications in the administration of the town so as to aid the Suburban Municipality by extending the water-supply and drainage system, I objected to it on the ground that, while the Suburbs would be

municipality with every possible economy to give them anything like those advantages? It is difficult to see how an income of 34 or 35 lakhs with an area of over 18 square miles can do what an income of 28 lakhs has done for the present town area of 6 square miles, and this after making all due allowances for differences in respect of density of population in the Town and Suburbs.

In the next place the proposed amalgamation will destroy the homogeneous character of the present town. At present the municipal boundaries of the Town of Calcutta are co-extensive with the ordinary civil and criminal jurisdiction of the High Court. Under the proposed scheme, part of the municipal town will be subject to the ordinary original civil and criminal jurisdiction of the High Court, and another large part of it will be subject to other jurisdictions. And this will be no mere theoretical anomaly, but will lead in many cases, as in the case of prosecutions for municipal offences, to appreciable practical inconvenience. The municipality will have to keep two sets of officers—one to conduct prosecutions in the Calcutta Police Court, another to prosecute offenders either in the Sealdah Joint-Magistrate's Court or in the Alipore Court.

Lastly, I submit that, whilst the proposed scheme is open to these objections, it is not after all necessary. When I say this, I do not for a moment mean to say that the sanitary condition of the Suburbs does not stand in need of immediate improvement, or that it is anything like what it should be. I quite agree with those enlightened members of the European community who first drew public attention to the subject, and to whom our best thanks are due; but what I do submit is that improvements need not be effected in this sudden and forced manner by creating such a large disturbance in the existing state of things, but that it might be effected by slow degrees under existing arrangements. The failure of the Suburban Municipality to cope with the evil up to this time need not make us despair. In the first place the evil complained of is due to certain inevitable causes. I do not mean to say that under measures of sanitary improvement, well directed, the death-rate in the Suburbs may not be reduced; but I beg leave to point out to those who criticise the administration of the Suburban Municipality, that there is one cause of that death-rate which is independent of the sanitary condition of the Suburbs as far as it can be affected or altered by any municipality. The population of the Suburbs consists, as I have said, of poor clerks and shop-keepers and labourers, and as it is well known that they do

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 28th January, 1888, at 11 A.M.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The HON. G. C. PAUL, C.I.E., Advocate-General of Bengal.
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON, KT.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. G. IRVING.
The HON. BABU KALI NATH MITTER.
The HON. DR. MOHENDRALAL SIRCAR, C.I.E.
The HON. C. H. MOORE.
The HON. DR. GOOROO DAS BANERJEE.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

HIS HONOUR THE PRESIDENT said:—Before calling upon the Hon. Sir [illegible] Harrison to make the motion which stands in his name, I have a few sug[illegible]re the o[illegible] to offer to the Council as to the best method of proceeding with the bu[illegible]tary co[illegible] before us. I have noticed that the amendments which have been printed [illegible] of. m[illegible] ewer confusing. We have the same amendments proposed in different wo[illegible]mal[illegible] different members of the Council, and we have also the same amendment Th[illegible] posed two or three times in different sections of the Bill. But on looking [illegible]ed the amendments I found that they all group themselves into two or th[illegible]ation nt heads, and by grouping them in this way we shall be able to rai[illegible] practically on the different heads to which the amendments belong. [illegible] can put to the vote the amendments separately under each hea[illegible]

[*The President.*]

with the permission of the Council I propose to do so. For instance, the firs question raised in the amendments is that of the amalgamation of th Suburbs with Calcutta. Technically speaking, these amendments fall unde Chapter I, which is not now before the Council. Chapter I being, as I fanc is usual in drafting, the chapter of definitions, is left to the last. I think i all Select Committees it is usual to leave the settlement of the definitio virtually until you have the whole Bill ready. On the other hand, it w obviously be unreasonable to go on discussing the constitution of the Muni pality without allowing the question as to the amalgamation of the Suburbs be raised, because the whole object of the Bill is really to provide for t amalgamation of the Suburbs with the Town; and if amalgamation is to refused, why the whole Bill will go. It will be observed that amendme Nos. 1 to 4 deal with the question of amalgamation, and that ame ments Nos. 7 to 9 are dependent upon that question. I, therefore, prop that that question be first discussed. That might, if the hon. member agrees, discussed under amendment No. 7 which stands in his name, and in that I would take amendment No. 7 first. On the other hand, although not stri in order, I shall not in the least object to amendment No. 1 being put as i although that part of the Bill is not before us. But as at present advise propose that we should take amendment No. 7 first and raise a debate as t amalgamation on that amendment.

The next group of amendments touches the question of the number of Commissioners and the proportion of nominees. It is difficult to separate two questions; they are mixed up in the amendment and in the drafting o Bill, and I do not see how they can be taken separately. It will be obs under exi endments Nos. 10 to 17 all touch upon that point. Then amendi pe with and 19 are separate, and they do not come under any of these gr le ev again amendments Nos. 21 to 23 are all amendments touching a subse tha int, not as to the number of Commissioners, but as to how they are o Sistributed. So that leaving out amendments Nos. 17 and 18, we may is the amendments into three groups—1st, as to amalgamation; 2ndly, as t onumber of Commissioners and proportion of nominees; and 3rdly, as urbistribution of the Commissioners, and I shall ask the hon. memb atieroposes the first three or four amendments to deal first with the qu rs and gamation, and when that has been discussed I will put his amen ote. I shall then ask that the question of the number of the Com

[*The President; Sir Henry Harrison; Dr. Gooroo Das Banerjee.*]

and the proportion of nominees be brought forward; and thirdly, the questi of as to the distribution of the Commissioners, and I shall then put these to the vote. That is what I propose to do with the approval of the Council.

The HON. SIR HENRY HARRISON moved that the further preliminary report of the Select Committee on the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta be taken into consideration in order to the settlement of the clauses of the Bill.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON also moved that the clauses of Chapter II, Part I, of the Bill be considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The HON. DR. GOOROO DAS BANERJEE moved that in section 5 the word "and all rights and interests in immoveable property situated within the are by this Act added to the Town of Calcutta, which are now vested in or he in trust for the Commissioners of the Suburbs of Calcutta" be omitte He said:—This implies that I oppose the principle of amalgamation on whi the definition of the Bill is founded, but technically speaking that *definitio* is not before the Council. But as Chapter II, Part I, is before the Council, and as section 5 refers to that Chapter, my amendment that this portion of section 5 be omitted, implies that the scheme of amalgamation on which this section and th subsequent section, and the other provisions of Part I, Chapter II, are based should not be accepted. In moving this amendment I am bound to say, t speak with some hesitation and diffidence, seeing that my vie s are opposed only to opinions which are certainly entitled to very great respect, bu may be taken to be opposed to already settled and accepted Nevertheless there are certain objections against the principle whi humble apprehension, appear so strong that I deem it my duty to plac briefly before the Council for their consideration. First, I subm the scheme of amalgamation fails to secure the object for which intended. That object is to improve the sanitary condition of the Subur Calcutta. Now the scheme proposed is not one of mere federalization of suburbs and the town, but one of complete amalgamation between the with a uniform rate of taxation all round. That means that taxation in Suburbs is to be at least doubled if not trebled. Now this sudden pre of increased taxation on the poor population of the Suburbs, a popul

with the permission of the Council I propose to do so. For instance, the first question raised in the amendments is that of the amalgamation of the Suburbs with Calcutta. Technically speaking, these amendments fall under Chapter I, which is not now before the Council. Chapter I being, as I fancy, is usual in drafting, the chapter of definitions, is left to the last. I think in all Select Committees it is usual to leave the settlement of the definitions virtually until you have the whole Bill ready. On the other hand, it will obviously be unreasonable to go on discussing the constitution of the Municipality without allowing the question as to the amalgamation of the Suburbs to be raised, because the whole object of the Bill is really to provide for the amalgamation of the Suburbs with the Town; and if amalgamation is to be refused, why the whole Bill will go. It will be observed that amendments Nos. 1 to 4 deal with the question of amalgamation, and that amendments Nos. 7 to 9 are dependent upon that question. I, therefore, propose that that question be first discussed. That might, if the hon. member agrees, be discussed under amendment No. 7 which stands in his name, and in that case I would take amendment No. 7 first. On the other hand, although not strictly in order, I shall not in the least object to amendment No. 1 being put as it is, although that part of the Bill is not before us. But as at present advised, I propose that we should take amendment No. 7 first and raise a debate as to the amalgamation on that amendment.

The next group of amendments touches the question of the number of the Commissioners and the proportion of nominees. It is difficult to separate these two questions; they are mixed up in the amendment and in the drafting of the Bill, and I do not see how they can be taken separately. It will be observed endments Nos. 10 to 17 all touch upon that point. Then amendments and 19 are separate, and they do not come under any of these groups again amendments Nos. 21 to 23 are all amendments touching a subsequ int, not as to the number of Commissioners, but as to how they are t stributed. So that leaving out amendments Nos. 17 and 18, we may d the amendments into three groups—1st, as to amalgamation; 2ndly, as t number of Commissioners and proportion of nominees; and 3rdly, as istribution of the Commissioners, and I shall ask the hon. memb roposes the first three or four amendments to deal first with the qu lgamation, and when that has been discussed I will put his amend ote. I shall then ask that the question of the number of the Com

[*The President; Sir Henry Harrison; Dr. Gooroo Das Banerjee.*]

and the proportion of nominees be brought forward; and thirdly, the questi as to the distribution of the Commissioners, and I shall then put these to tl vote. That is what I propose to do with the approval of the Council.

The HON. SIR HENRY HARRISON moved that the further preliminary report of the Select Committee on the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta be taken into consideration in order to the settlement of the clauses of the Bill.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON also moved that the clauses of Chapter II, Part I, of the Bill be considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The HON. DR. GOOROO DAS BANERJEE moved that in section 5 the word "and all rights and interests in immoveable property situated within the are by this Act added to the Town of Calcutta, which are now vested in or he in trust for the Commissioners of the Suburbs of Calcutta" be omitte He said:—This implies that I oppose the principle of amalgamation on whi the definition of the Bill is founded, but technically speaking that *definitio* is not before the Council. But as Chapter II, Part I, is before the Council, and as section 5 refers to that Chapter, my amendment that this portion of section 5 be omitted, implies that the scheme of amalgamation on which this section and tl subsequent section, and the other provisions of Part I, Chapter II, are based should not be accepted. In moving this amendment I am bound to say that I speak with some hesitation and diffidence, seeing that my views are opposed not only to opinions which are certainly entitled to very great respect, but may be taken to be opposed to already settled and accepted would be Nevertheless there are certain objections against the principle which are no humble apprehension, appear so strong that I deem it my duty to plac briefly before the Council for their consideration. First, I submit, the scheme of amalgamation fails to secure the object for which intended. That object is to improve the sanitary condition of the Suburbs Calcutta. Now the scheme proposed is not one of mere federalization of suburbs and the town, but one of complete amalgamation between the with a uniform rate of taxation all round. That means that taxation in Suburbs is to be at least doubled if not trebled. Now this sudden pre of increased taxation on the poor population of the Suburbs, a popul

[*Sir Henry Harrison; The President.*]

The HON. SIR HENRY HARRISON moved that, at the end of Schedule IX, th following words be inserted:—

"Or any other scale which the Commissioners in meeting may from time to tin prescribe."

He said:—This is an important amendment, and it revives the discussio which took place at a previous meeting. I was able to circulate only yesterda a note by Mr. Kimber, giving the result of his experiments, with a schedule ferrules proposed by him. These experiments show that in some cases th mathematical formula gives an under-estimate of the quantity passin through the ferrules, but in very many cases the ferrule will not work up to i there is something which prevents the proper working, such as the pipes bein too small, or a number of bends, or a dead end, so that the water is backed stopped; and Mr. Kimber comes to the conclusion in paragraph 10 (page of his note that for practical purposes the co-efficient 13 should be reduc to 9; it gives four-thirteenths less draught as the average result all over th town, and the discharge of the ferrules should be reduced in the sam proportion, viz., as 13 is to 9.

The question is, how should we deal with this? He gives a scale ferrules which is one degree more liberal all the way up. He commences wi houses valued at Re. 1 to Rs. 5, and the next in the scale from Rs. 5 Rs. 10, and the result is that he proposes to give a slightly larger ferrule in a the grades. The question for the Council to determine is—first, will they tak Mr. Kimber's scale as given in his note, or the scale in the schedule as it stand or will they leave the scale to be fixed by the Commissioners in meeting, or by th Government on the recommendation of the Commissioners? I have adopte the suggestion that a scale should be laid down in the Act as a sort of indic tion to the Commissioners upon which they should act. It seems to me tha looking to the probabilities of error, it should be left to the Commissioners fix the scale from time to time.

HIS HONOUR THE PRESIDENT said:—When this subject was discussed befo an amendment of the Hon. Babu Kali Nath Mitter was under consideratio His amendment was to omit Schedule IX, and to leave the fixing of a sca of ferrules to the discretion of the Commissioners in meeting.

[*Babu Kali Nath Mitter; The Advocate-General; Mr. Macaulay; Sir Henry Harrison; The President.*]

The Hon. Babu Kali Nath Mitter said:—I have no objection to the amendment of the hon. member in charge of the Bill, the wording of section 155 is altered. I think the hon. member's amendment should be in the body of the Act, otherwise there will be a great deal of ambiguity. I think his amendment will practically leave the matter in the hands of the Commissioners, and a good deal of the time of the Council will be saved if we adopt his amendment.

The Hon. the Advocate-General said:—If the schedule is amended in the way proposed by the hon. member in charge of the Bill, the wording of section 155 must be altered also. I think it will be preferable to have a scale in the schedule and to amend section 155 as proposed. But it appears to me that there should be some limitation on the discretion of the Commissioner's as, for instance, by making the approval of the Local Government necessary. This is my principal objection.

The Hon. Babu Kali Nath Mitter said:—In that case I shall have to move my amendment.

The Hon. Mr. Macaulay said:—In the Select Committee it was decided that we should recommend, as a compromise, to allow the Commissioners an exceptional power of altering the size of the ferrule to meet special cases, but that apart from that we should fix something beyond which the Commissioners should not go. If, however, any sliding scale is to be allowed at all, then I think it should be made subject to the approval of the Local Government, the Commissioners being left to recommend any alteration in it.

The Hon. Sir Henry Harrison said in reply:—The Hon. Member is quite right as to what was decided in Select Committee. But as this is a matter of much difficulty, and there being so many disturbing elements to be taken into consideration, I think the Executive should not avoid the obligation of satisfying the Commissioners. Mr. Kimber gives his opinion unhesitatingly that the present scale is too liberal; therefore, after indicating a scale, the Council ought to leave it to the Commissioners to vary it as occasion may arise.

His Honour the President said:—It seems to me from what the Hon. Mr. Macaulay has said, that the Select Committee decided that a scale

should be fixed in the Act, but that the Commissioners should have power escape from it in exceptional cases.

The HON. SIR HENRY HARRISON said in reply:—The exception was depend on proof that the ferrule would not give the exact supply; but beyo that the Commissioners, with the sanction of the Local Government, were have the power to alter the general scale of ferrules.

The HON. MR. MACAULAY said:—I am quite sure that there was no questic whatever in Select Committee of the scale being altered with the approval of tl Local Government.

HIS HONOUR THE PRESIDENT said:—There is in Schedule IX a scale of ferrul and an improved scale has been prepared by Mr. Kimber. As the Bill stand the schedule will have to be enforced by the Commissioners, and they will n have the power of altering it. Originally the motion of the Hon. Babu Ka Nath Mitter was that the law should be altogether silent on the point, that i should fix no scale, and that it should be left to the Commissioners to fix an schedule they pleased. The compromise suggested by the hon. member i charge of the Bill to meet that is that the scale should remain in the schedul as an indication for the Commissioners, but that they should be at liberty t alter it from time to time on their own authority. And now it has beer suggested that the Commissioners should only have power to alter the scal with the sanction of the Local Government.

[The HON. DR. GOOROO DASS BANERJEE asked whether it was proposed to retain the scale in the ninth schedule, or to adopt the scale suggested by Mr. Kimber?]

The HON. DR. MAHENDRA LAL SIRCAR said:—The scale as it stands in the schedule is based on calculations which have been proved to be incorrect by the experiments made by Mr. Kimber himself. I would beg to observe that the formula given by the hon member in charge of the Bill is not the formula given by the most recent authorities on the subject. I would rather have Mr. Kimber's scale of ferrules than the scale given in the Ninth Schedule. I move that the scale of ferrules given by Mr. Kimber in his note be substituted for Schedule IX.

[*Mr. Reynolds; Dr. Gooroo Dass Banerjee.*]

The Hon. Babu Kali Nath Mitter's motion that, in lines 9 and 10 of section 155, the words "through a ferrule of the size indicated by the Commissioners in meeting" be substituted for the words "through a ferrule of the size indicated in the ninth schedule," was put to the vote and negatived.

The Hon. Sir Henry Harrison's motion that the words "or such other scale as the Commissioners in meeting may from time to time approve" be inserted after "ninth schedule" in line 10 of section 155, being put, the Council divided:—

Ayes 4.	*Noes* 9.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Babu Kali Nath Mitter.	The Hon. C. H. Moore.
The Hon. Sir Henry Harrison.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. the President.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.

So the motion was negatived.

The Hon. Mr. Macaulay's motion that the words "or such other scale as the Local Government may on the recommendation of the Commissioners in meeting approve" be inserted after "ninth schedule" in line 10 of section 55, was put to the vote and carried.

The Hon. Dr. Mahendra Lal Sircar's motion that the scale of ferrule given by Mr. Kimber in his note be substituted for the scale given in the ninth schedule, having been proposed for consideration,—

[The Hon. Mr. Reynolds asked whether the adoption of Mr. Kimber's schedule would require the Commissioners to refuse all future applications for connections?]

The Hon. Sir Henry Harrison said:—It would certainly not have that effect.

The Hon. Dr. Gooroo Dass Banerjee said:—I submit that the adoption of Mr. Kimber's scale amounts not to liberality, but only to the correction of an error. The scale given in Schedule IX is based on the supposition that 16

[*Dr. Gooroo Dass Banerjee; Dr. Mahendra Lal Sircar; Sir Henry Harrison.*]

gallons a minute can be drawn from a ferrule half an inch in diameter, and that is obtained by adopting 13 as the co-efficient on the formula. But we have now the opinion of Mr. Kimber, who is an expert, and he says that for the figure 13 we ought to have taken the figure 9, so that we cannot have 16 gallons per minute from a half-inch ferrule. If the standard is found to be incorrect, it is but fair and just that we should alter our scale accordingly.

The HON. DR. MAHENDRA LAL SIRCAR said:—In making these calculations only the normal pressure has been taken without reference to the distance of the taps from the place of pressure, and that accounts for the difference between the calculations and the actual results of the experiments; therefore there is no question of liberality in Mr. Kimber's scale. If he went further he would find reason to reduce the co-efficient to a lower figure still.

The HON. SIR. HENRY HARRISON said:—Mr. Kimber himself took the same formula as he did. There are a number of other formulæ which entail elaborate calculations, but the one which has been taken is simple and sufficiently accurate for all practical purposes.

The HON. DR. MAHENDRA LAL SIRCAR'S motion was put to the vote and carried.

The HON. SIR. HENRY HARRISON moved that, after section 459, the following new section be inserted:—

"460. The provisions of Schedule XIII shall apply to the budget for the year 1889-90, and to the rates and taxes which shall be levied during that year; and the provisions of Act IV (B.C.) of 1876, so far as they are inconsistent with the provisions of the said schedule, shall be repealed so far as they relate to preparing and passing such budget, and to fixing the rates and taxes to be levied during the year 1889-90."

He also moved that, after Schedule XII, the following new schedule be inserted:—

Thirteenth Schedule.

"1. The budget for 1889-90 shall show what expenditure it is proposed to incur in the Town, as well as in the area added to the Town by this Act during that year, and the manner in which it is proposed to meet such expenditure.

2. Such budget shall at a special general meeting of the Commissioners of the Town of Calcutta to be held in the month of February 1889 be referred to a Special Committee of eighteen members, of which twelve shall be chosen by the Commissioners of the Town of

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

THE Council met at the Council Chamber on Saturday, the 5th May, 1888, at [illegible].

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The Hon. G. C. PAUL, C.I.E., *Advocate-General*.
The Hon. H. J. REYNOLDS, C.S.I.
The Hon. C. P. L. MACAULAY, C.I.E.
The Hon. T. T. ALLEN.
The Hon. SIR HENRY HARRISON, Kt.
The Hon. SIR ALFRED CROFT, K.C.I.E.
The Hon. BABU KALI NATH MITTER.
The Hon. DR. GOOROO DASS BANERJEE.
The Hon. H. PRATT.

BENGAL MUNICIPAL ACT, III of 1884, AMENDMENT BILL.

The HON. MR. MACAULAY presented the Report of the Select Committee on the Bill to amend the Bengal Municipal Act, III of 1884.

The HON. MR. MACAULAY said:—By inadvertence notice was not inserted in the list of business of my intention to move that the Report of the Select Committee be taken into consideration. I ask His Honour the President to grant me permission under Rule VII of the Rules for the conduct of business to make that motion now.

HIS HONOUR THE PRESIDENT having granted the necessary permission—

The HON. MR. MACAULAY moved that the Report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill.

The motion was put to the vote and carried.

The HON. DR. GOOROO DASS BANERJEE said:—I ask permission to move an amendment, which is sufficiently indicated in the note I have appended to the Report of the Select Committee, viz., that at the end of section 2 of the Bill the following words be added: "after making reasonable compensation to such municipality for any loss of income resulting from such exclusion." My reasons for moving this amendment are these. In the first place, the exclusion of lands or buildings from the limits of any municipality will not necessarily relieve such municipality of the burdens it has to bear on account of such lands or buildings. For instance, it will have to maintain in proper condition the drains necessary for the surface drainage of such lands or buildings. Then, again, it will have to maintain in proper condition the roads that are necessary only for the purposes of such lands or buildings. It is therefore, I submit, but fair that, when municipalities are not likely to be relieved of such burdens, some compensation should be made. In the next place, wherever there are Government buildings within the limits of a municipality, it is well known that the amount of income derivable from rates on such buildings is by no means inconsiderable; so that, if the exclusion of such lands or buildings be not compensated for by a reasonable sum paid to the municipality, it will suffer a sensible diminution in its income. And as we all know there is hardly any municipality in the mofussil the funds of which are more than sufficient to meet its expenses, the result of such exclusion will leave municipalities to which the operation of this Bill may be extended with funds insufficient for the necessary expenditure. That is a result which I am sure Your Honour's Government, which has always shown itself most anixous to promote the cause of local self-government, and the hon. member in charge of the Bill, who is justly considered one of the best friends of local self-government, will never desire. Nor is it the object of this Bill to exempt such lands or buildings from rates. The object of the Bill, as far as I understand it, is to prevent any unseemly and inconvenient collision arising between the municipal authorities and the Government departmental authorities in immediate charge of such buildings; and so far as that is concerned, it may be secured on payment of reasonable compensation. I therefore respectfully submit, for the indulgent consideration of the Council, the amendment I have suggested.

Calcutta at the special general meeting which shall order the reference, and six shall be chosen by the Commissioners of the Suburbs of Calcutta.

3. Such Committee shall meet at such times and places as the Chairman, subject to the decision of the Committee, may appoint, and shall, within twenty-one days of its appointment, return the budget to the Commissioners of the Town of Calcutta with such modifications and comments as may seem expedient

4. The Commissioners of the Town of Calcutta shall, at a special general meeting to be held in the month of March, consider such budget as modified by the Special Committee, and pass it subject to such further modifications or additions as may be thought fit. The said Commissioners shall thereupon at the same meeting, or if such meeting be adjourned, at an adjourned meeting, fix, with reference to the budget as passed, the rates at which the rates and taxes mentioned in this Act shall be imposed for the year commencing the 1st April 1889; and the rates and taxes so fixed shall have the same force in Calcutta for the year 1889-90 as if they had been fixed by the Commissioners in meeting for any subsequent year under section seventy-one of this Act."

He said:—This motion explains itself. The budget has to be prepared during the last two months of a year for the year succeeding. How is a valid budget to be passed which will apply to the enlarged area from 1st April next? Will a budget framed under the present Act be legal? I suggest that what I propose will be a legal and equitable solution. I have suggested that the Suburban Commissioners should have a voice on the Budget Committee, but I thought it would be too complicated to allow them also a voice at the meeting of the Commissioners which will discuss and pass the budget. If the Council thinks that should be done, I have no objection, but the fact is that the real work is done by the Budget Committee; the Commissioners in meeting generally accept the budget with one or two amendments: this year, which was an exceptional one, three amendments were made.

The Hon. Babu Kali Nath Mitter said:—As the budget has to be framed before the 1st of April, it is necessary that some provision should be made for its preparation. So far as the Town Commissioners are concerned, I am sure there will be no objection to some of the Suburban Commissioners assisting in the passing of the budget.

The motions were put to the vote and carried.

The Hon. Sir Henry Harrison said:—The Council has now to dispose of the definitions, and I shall be glad of a short delay to look through the Bill in order

to see whether any alterations are needed to meet the modifications which have been made by the Council. I would also ask whether it will be possible at the same time, supposing it should appear that any sections require reconsideration, to bring forward any such proposals. It is obvious that any attempt to reconsider the whole Bill will be preposterous, but the preparation of a Bill of this kind is a very serious task, and no doubt there are a great many flaws in it; but if any such are found between this time and the passing of the Bill, I hope I shall be at liberty to bring forward the necessary amendments for their correction.

HIS HONOUR THE PRESIDENT said:—I quite recognise the fact that a Bill of this kind, after being amended in Council, requires careful revision from the draftsman's point of view, to see that the amendments which have been made are so worded as to amalgamate and fit in with the rest of the Bill; and that is not the kind of work that can be done in a day. And as the hon. member in charge of the Bill has pointed out, it will be well to take the opportunity of pointing out any errors that may exist and making suggestions for the correction of such errors. I propose that the Council be adjourned for this purpose for a fortnight; but for the work which the Hon. Mr. Macaulay has in hand I shall have to ask the Council to meet again on this day week.

The Council was adjourned to Saturday, the 5th May, 1888.

CALCUTTA;
The 8th May, 1888.

WILLIAM GRAHAM,
for Assistant Secretary to the Govt. of Bengal, Legislative Department.

Reg. No. 3117G—300—26-5-88.

[*Mr. Macaulay; The Advocate-General.*]

The HON. MR. MACAULAY said:—I regret I am unable to recommend the Council to accept this amendment. In the first place, I think my hon. friend has lost sight of a very important consideration. When I obtained leave to introduce the Bill, I stated that it was not intended that the Government should have the power of excluding civil buildings and lands generally from municipal taxation, but that it was intended to take power only in regard to the very exceptional cases of military and naval buildings. What possible application then can there be of the argument that mofussil municipalities generally will lose their incomes? The number of municipalities to which the Bill can apply is extremely small. In any case I should object to the form of the amendment. This would force Government to give compensation in every case without exception for loss of income. Now we all know perfectly well that if lands and buildings exist in a municipality, they are liable to certain rates; that if they are excluded, for however good a reason, there must be a loss to the municipality. I cannot conceive, however, that the Government should in every case be forced to make good the loss on account of rates on lands and buildings excluded. The third consideration—and I think it is one which will satisfy the Council—is that, in the case of buildings in the occupation of the State for military or for naval purposes, the taxation is paid by the Supreme Government. It is not within the province of this Council to dispose of Imperial funds. But I do not suppose that my hon. friend would expect the Local Government to pay the compensation out of Provincial funds.

The HON. THE ADVOCATE-GENERAL said:—The proposal seems to me to imply that the assessment on Government lands and buildings is an unfair assessment, and unduly made at a very much higher rate than those lands and buildings ought to be rated. It is suggested if there had been an equable assessment, there would have been no objection raised. Consequently the objection seems to me to resolve itself into this. A municipality has obtained a large benefit by the accidental inclusion of that which ought to have been originally excluded. The mistake having been discovered, the Government should clearly be relieved by excluding such lands and buildings from municipal limits. The burden having been once cast on the Government, the argument that it should not be altered, except on payment of compensation, seems to me fallacious.

HIS HONOUR THE PRESIDENT said:—I may just say one thing in regard to what has been touched upon by my hon. friend to the left (Mr. Macaulay), and that is, that the original proposal of the Government of India was to take power to exclude all buildings and lands in the occupation of the Government, of whatever kind, from municipal limits. How far that might have been justified on financial grounds I am not in a position to say, because the letter of the Government of India does not discuss it. It was put on the ground that in all other Municipal Acts in the different provinces in India similar power is taken. But it was partly on account of the financial effects which might have followed to such exclusion that I requested the Government of India to confine their proposal to what seemed to me strictly unobjectionable and necessary, namely, to buildings which are in the possession of the Government for military or naval purposes. As to these, I do not think the question of compensation can very well arise. Certainly I do not think it arises in the particular instance which gave rise to the Bill. But if it were to arise, the question is one which I think had much better be dealt with by the Local Government than by a hard-and-fast law, because it certainly may be the case that there ought to be no compensation, and the amendment proposed leaves no possibility of avoiding payment in such a case. It assumes that compensation is to be given in every case. The other argument touched upon by my hon. friend, namely, that we have no power to deal with Imperial funds, is of course well understood by the Council, and I do think that, in order to remove Imperial buildings from the governance of municipalities—and I do not believe there are more than two in the whole province—it will be very hard that the Provincial funds should pay compensation.

The motion was put to the vote and negatived.

THE HON. MR. MACAULAY said:—Although the Council has adopted my motion and taken the Report of the Select Committee into consideration, and although under the Rules the Bill might at once be passed, I ask permission to postpone that motion till the next meeting of the Council.

The motion that the Bill be passed was accordingly postponed.

[*Mr. Macaulay.*]

HOWRAH BRIDGE ACT, IX OF 1871, AMENDMENT BILL.

THE HON. MR. MACAULAY asked permission to make a representation to the Council on a subject not on the notice paper regarding the amendment of the Howrah Bridge Act. He said:—At the meeting before last I obtained permission to introduce the Bill, and I proceeded in the ordinary course to prepare a Statement of the Objects and Reasons, and these were in course of circulation for consideration at the last meeting, when a telegram was received which intimated that the Government of India had certain objections to offer to the Bill. The circulation of the papers was accordingly stopped, and it was considered desirable, before placing the matter further before the Council, to await the letter of the Government of India, and to see what objections really were taken. That letter has just been received, but there has been no time to prepare an amended Statement of Objects and Reasons. The Government of India has taken objection to the third proposal in the Bill to make over from the surplus bridge funds two lakhs of rupees to assist the Calcutta Municipality in making a road from the bridge to the Sealdah Railway station. The Government of India object to this on two grounds—first, they do not think the Calcutta Municipality has any claim to a share in the surplus, which has been in the main contributed from the general funds of the East Indian Railway by the terminal charges on goods and passengers carried by them; but even if that were desirable, the Government of India are of opinion that it would be more prudent, in view of possible dangers which might arise from the temporary nature of the bridge, that the whole of the surplus should be added to the reserve fund. We must of course defer to the decision of the Government of India, and it is therefore necessary to bring in a Bill differently constructed. I think in the circumstances that it will conduce to the despatch of business if the Council will now receive the Bill as it has been prepared, with the Statement of Objects and Reasons, and refer it to a Select Committee, and leave it to the Select Committee to make the necessary alterations in accordance with the wishes of the Government of India. The reason why I press this on the Council is that, until the Local Government is invested with the necessary power, local tolls must go on being levied. The Howrah Bridge Act having made the levy of local tolls compulsory, the levy of such tolls must continue until an Act is passed and sanctioned by the Government of India. I therefore ask that the Bill be now read in Council.

[*The President; Mr. Macaulay.*]

HIS HONOUR THE PRESIDENT said:—I have given permission to bring this matter before the Council, and will be guided by their opinions as to the action to be taken. The position seems to be this—that the present Bridge Act as it stands does not permit the local tolls being taken off without fresh legislation. At the same time the Act declares that these tolls are to be in force until the requisite sum is accumulated. That sum has now been accumulated, and we are going on levying tolls, which, as my hon. friend explained, ought, to a certain extent at all events, to be taken off at once, and the sooner the better. For that reason, instead of postponing the reading of the Bill, I thought it necessary to bring the question before the Council; and what the Council will have to consider is, first, whether the Bill may be read now and referred to a Select Committee, and then whether the procedure suggested, namely, that the cutting out of the third section, which deals with the grant of two lakhs of rupees to the Calcutta Municipality for the purpose of constructing the new road, may be dealt with by the Select Committee. These are the points which the Council will have to consider. If any hon. members object to the proposed facilities being now given, that will be a point for consideration.

The motion was put to the vote and carried.

The HON. MR. MACAULAY also moved that the Bill be referred to a Select Committee, consisting of the Hon. Mr. Reynolds, the Hon. Babu Kali Nath Mitter, the Hon. Mr. Pratt, and the Mover, with instructions to report upon it at the next sitting of the Council.

The motion was put to the vote and carried.

The Council was adjourned to Saturday, the 12th May 1888.

CALCUTTA;
The 15th May 1888.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

T. B. C.—Reg. No. 798G--100—3-2-90.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

THE Council met at the Council Chamber on Saturday, the 12th May 1888, at 11 A.M.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *Presiding*.

The HON. G. C. PAUL, C.I.E., Advocate-General.

The HON. H. J. REYNOLDS, C.S.I.

The HON. C. P. L. MACAULAY, C.I.E.

The HON. T. T. ALLEN.

The HON. SIR HENRY HARRISON, KT.

The HON. SIR ALFRED CROFT, K.C.I.E.

The HON. BABU KALI NATH MITTER.

The HON. DR. MAHEND. LAL SIRCAR, C.I.E.

The HON. DR. GOOROO D. ss BANERJEE.

The HON. H. PRATT.

BENGAL MUNICIPAL ACT AMENDMENT BILL.

The HON. MR. MACAULA. moved that the Bill to amend the Bengal Muni. ' Act, III of 1884, be passed.

The motion was put and agreed to, and the Bill was then passed.

HOWRAH BRIDGE ACT AMENDMENT BILL.

The HON. MR. MACAULAY presented the Report of the Select Committee on the Bill to amend the Howrah Bridge Act, IX of 1871.

The HON. MR. MACAULAY also moved that the Report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill and that the clauses of the Bill be considered in the form recommended by the Select Committee.

The motion was put and agreed to.

The HON. MR. MACAULAY also moved that the Bill as amended be passed.

The motion was put and agreed to, and the Bill was then passed.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The HON. SIR HENRY HARRISON moved that the clauses of the Bill to consolidate and amend the law relating to the Municipal Affairs of the Town and Suburbs of Calcutta, as further amended, be further considered in the form recommended by the Select Committee.

The motion was put and agreed to.

The HON. BABU KALI NATH MITTER moved that such of the sections of the Municipal Bill to which objections have been taken by those residents of Calcutta who have memorialized His Honour the Lieutenant-Governor on the subject, and which had been passed previous to the receipt of their memorial, be reconsidered.

He said:—On the 17th of April last a memorial was presented to Your Honour by a deputation appointed by a public meeting in the Town Hall, and in answer to that memorial Your Honour was pleased to say:—

"Your memorial will, however, be duly laid before the Council, and if the Council should wish to have any of the points enumerated re-opened and reconsidered, I shall not allow a technical objection to stand in the way."

If my memory serves me right, at the meeting of the Council on the 18th April, Your Honour referred to this memorial, and also then said pretty nearly the same thing as you stated to the deputation which waited on you. Availing myself of what Your Honour then said, I thought the practical way to give effect to it was to bring forward this motion, because the matter could not otherwise be discussed and considered. The memorial, I think, was circulated to the Council before the meeting of the 21st April, and the first section of the Bill which was considered on that day was section 235, so that, if this motion of mine is now carried, the sections prior to 235 would have to be reconsidered. I do not mean that all those sections would be reconsidered, but only those to which exception has been taken by the memorialists. In going through the memorial, it seemed to me that only a small number of sections would require reconsideration, such, for instance, as the sections which relate to the constitution of the Municipality, the section about the appointment of the Chairman, the sections about the control which the Local Government should exercise over the Municipality, and the section about the general Committee, and that about

[*Babu Kali Nath Mitter; The President; Sir Henry Harrison.*]

the assessment of house property. I think these are all the sections which would have to be reconsidered if my motion is carried. I do not wish to take up the time of the Council by entering into those matters now, because in the course of the various amendments which I moved I fully discussed those questions. I will only remind the Council that the body which presented the memorial belong to an important community, and that being so, their representations should have some effect on the Council. To my mind the result will be clear. I do not for a moment anticipate that the result will be in any way different from what it has been, or that any amendments I may bring forward will share a better fate than those I had the honour to place before the Council at its earlier meetings. But still I think it my duty to take advantage of the statement made by Your Honour that you will not allow any technical objections to stand in the way of reconsidering these questions if the Council so desire; and I therefore make this motion for discussion by the Council.

His Honour the President said:—I think that what the hon. member has just said is perfectly correct, and that he is quite within his right under the special circumstances of the case in asking for an opportunity of getting an expression of opinion from the Council on the question he has raised. In deference to the important body that deputed the gentlemen referred to with the memorial, I said on that occasion that, though a great many of the sections of this Bill to which they objected had already been considered by the Council, I should not, if the Council wished to reconsider them, let any technical difficulty stand in the way. The question has practically been left dormant from that time to this, and now the hon. gentleman takes the opportunity of raising the question whether the Council does or does not mean to reconsider these sections. I think, in consideration of what I said before, that the most respectful way I can deal with this question is simply to put it to the Council.

The Hon. Sir Henry Harrison said:—Being the member in charge of this Bill, I can have no objection to any reconsideration of the Bill, because it is my conviction that the overwhelming force of argument and reason is on the side of the decisions to which the Council has already come in respect of the several matters to which the hon. member has referred, and a rediscussion would only serve to bring out that preponderance of argument and reason

[*Sir Henry Harrison; the Advocate-General; Dr. Gooroo Dass Banerjee.*]

still more forcibly. But looking at the motion from the point of view of the Council, I would ask whether any useful purpose can be served by re-opening the consideration of these questions My hon. friend has himself made a statement which, I think, closes the door to any further discussion, namely, that it will make no difference in the result. If he rightly diagnoses the effect of the rediscussion of these questions, which would occupy at least one or two sittings of the Council, what useful purpose would be served by further discussions in which the same arguments would be repeated, and the result of which the hon. member himself virtually acknowledges would be inevitably the same as before?

The HON. THE ADVOCATE-GENERAL said:—The hon. mover of the motion before the Council himself took a most prominent part in the discussion of these sections and stated fully his arguments, and I take it that we ought not to be asked to reconsider the sections or arguments which have already been adduced. Unless the hon. member can adduce additional arguments, throwing further light on the discussions which have taken place, I don't think we ought to re-open the consideration of these questions. I have not heard a single additional argument in respect of any of these questions, and that being so, we are not in a position to take the matter into consideration again. That an important section of the community has taken objection to these provisions is no doubt a matter of significance, but that taken by itself, without any additional arguments being adduced to support those objections, affords no sufficient reason for reconsidering matters which have already been fully discussed. Are we to discuss questions again on grounds which have already been discussed? I apprehend that is not a procedure we should be called upon to adopt. No fresh grounds having been put forward, I shall therefore vote against the motion.

The HON DR. GOOROO DASS BANERJEE said:—I wish to say one word in support of the motion. Although it may be quite true that the speculative reasons which may be advanced for and against any of the matters which have already been settled may be the same as before, still as many of the points which were discussed involve matters of opinion more than matters of mathematical demonstration, the views and sentiments of a large and important section of the community ought properly to be taken into consideration.

[*Dr. Gooroo Das Banerjee; Babu Kali Nath Mitter.*]

The fact that the Council has now before it the formulated expressions of opinion of a very large and important section of the community is of itself a reason why, if the Council be so disposed, these questions might be reconsidered in the light of those opinions, and with the additional information that those views convey to us. The parties who are most likely to be affected by the provisions of the Bill have also a right to say what they think about those provisions; they have said something, and we may fairly take into consideration what they have said.

The Hon. Babu Kali Nath Mitter said:—In reply I will simply point out that the very fact that an important section of the community has taken serious objection to many provisions of the Bill is a strong argument in favour of their reconsideration. It is one thing to discuss and decide a matter without knowing the views of the community which are most affected by the provisions of the Bill, and it is another thing to discuss them in the light thrown on the discussion by that community coming forward and making a representation before Your Honour. Therefore it is not necessary for me to advance any argument in favour of this motion in the way pointed out by the hon. and learned Advocate-General. No doubt, if I have to argue these sections again, I would argue them in the same manner as I did before, adding thereto the opinions and representations submitted by the memorialists; and therefore the mere fact that I do not advance any fresh arguments now is, I submit, not a sufficient reason for refusing to consider this matter. For after all, who are the persons most interested? They are the persons who have come forward to offer suggestions. As far as this Council is concerned, it may pass the Bill, and there its responsibilities and its duties cease; but as far as the outside public is concerned, they will be affected by these provisions almost daily, and therefore I submit it will only be gracious on the part of the Council if they accede to this motion. The hon. member in charge of the Bill complains that there would be one or two additional sittings of the Council; but considering the amount of time we have spent upon the consideration of this Bill, I do not think that argument should at all influence my colleagues. If for the interests of the public there should be two or three or even four meetings more, I do not think we should grudge them. My hon. friend referred to my own sentiment on the subject. I have formed the impression that as far as the present Council is concerned, I do not think it will be possible to have modifications

introduced in the sections which have already been passed. I have formed that impression after careful consideration: but that is neither here nor there. Certain persons have come forward and raised serious objections to several very important sections of the Bill, and it would only be gracious on the part of the Council to yield to those representations and to reconsider those provisions

The motion being put, the Council divided:—

Ayes 3.	*Noes* 8.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H Pratt.
The Hon. Dr. Mahendra Lal Sirkar.	The Hon. Sir Alfred Croft.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

The HON. SIR HENRY HARRISON said:—I have now to move a series of amendments in the Bill before the motion finally to pass it is brought forward, and I must ask the indulgence of the Council, and remind them that in a large measure of this kind there must be a number of flaws, and the object of these amendments is simply to remove some of them. The first of these amendments was brought to my notice by the Hon. Mr. Reynolds, who pointed out that section 460, which provides for the preparation of the budget in anticipation, is in a part of the Act which will not come into force before the 1st of April. It is therefore necessary to provide that that section and the schedule appended to it shall come into force on an earlier date, and with this object I move that, to section 1, the following be added:—

"And section four hundred and sixty and the schedule referred to therein, shall come into force from the 1st January 1889."

The motion was put and agreed to.

The HON. SIR HENRY HARRISON said:—The next amendment has reference to a certain difficulty, especially in the added area, owing to the fact of there being owners and sub-owners in possibly two or three grades, and possibly also occupiers, though that does not come in here, and is of less importance.

The present Act places the liability of ownership on the person who receives the rent; but several persons may be receiving the rent. In the Mofussil Act the words are "every person who is entitled to receive any rent in respect of land"—not as proprietor, for that is already met, but in the various grades of sub-proprietors, such as a mokuriridar, durmokuriridar, as well as a lakhirajdar, and in that case each one of them would come under the definition of "owner," because each would be receiving rent from the land. I therefore move that in line 2 of clause (*a*) of the definition of "owner" in section 3, for the word "rent" the words "any of the rent" be substituted.

The motion was put and agreed to.

The Hon. Sir Henry Harrison moved that, in line 4 of section 8, for the words "resident in Calcutta" the words "residing or paying rates in Calcutta" be substituted; also that, in line 11 of section 4, for "residing, carrying on business, or personally working for gain in Calcutta" the words "residing or paying rates in Calcutta" be substituted; also that in line 4 of section 9, after "resides" the words "or pay rates" be inserted

He said:—I shall explain to the Council that *some* amendment is necessary here, and it is for them to say whether these or any other amendments should be made. According to my view it is desirable first to amend section 8, and therefore I preferred to put this amendment first. But the difficulty may also be met by altering the section in another way. I will first refer to section 14, which provides that any person qualified to vote under any of the preceding sections shall, subject to the provisions of section 32, be qualified to be elected a Commissioner. So the qualification to be elected is the same as the qualification to vote. But by section 4 the seventy-five members shall be male persons, "residing, carrying on business, or personally working for gain in Calcutta," while by section 8 the electors must reside in Calcutta. How are these two sections to be reconciled? First the qualification to vote and the qualification to be elected are the same; but the qualification to vote requires residence, whereas the qualification to be elected may be either residence or working for gain or carrying on business. The reconciliation I propose is to substitute for "resident" the words "residing or paying rates." That seems a fair and not embarrassing way of reconciling the difference; and if that is done, we must put in the same words in

section 4. If, on the other hand, we take the words of section 4 and put them in section 8, we shall have to alter several other sections. A person who pays no rates at present is not supposed to vote; if he resides in Calcutta, he can be qualified by paying taxes. But the section which provides for the place of voting says that a person qualified under clause (*d*) of section 8, which refers to the payment of the trades and professions tax, shall, if he pays rates directly to the Commissioners for his place of business, vote in the ward in which his place of business is situated, or if he does not pay rates for any place of business directly to the Commissioners, he shall vote in the ward in which he resides. That presumes that he must do one or the other. The amendment which I propose will meet the difficulty, and seems on the whole reasonable and fair. A person who resides out of Calcutta and only comes to his office and does his work there has the smallest possible interest in the town, but a person who either resides in the town or pays rates on account of property has a substantial interest. That is the reason why I have selected this solution of the difficulty.

The HON MR. ALLEN said:—I wish to ask the hon. member in charge of the Bill whether there is such an antagonism as he supposes. The qualifications for election are laid down in section 8, and I understand these are exactly the same qualifications which are required in respect of the persons to be elected and those who are to elect them, and therefore so far the Bill is perfectly harmonious. The discrepancy is supposed to be between sections 4 and 8 But section 4 lays down a rule not only for the 50 Commissioners to be elected, but also for the other 25 Commissioners to be nominated. That is a wider rule. It allows the 25 Commissioners not elected to be qualified in a different manner. [The Hon. Sir Henry Harrison—"That may be the meaning, but that is not intended."] It is quite easy to give effect to the two sections; for before a person can be proposed as a candidate for election, he must fulfil the conditions prescribed in section 8, which are quite consistent with the qualifications further on in the Act. But the 25 Commissioners to be nominated, which is the difference between 75 and 50, do not require such strict qualifications It would be open to the Government to nominate a person who may be carrying on business or personally working for gain, even though he does not reside in Calcutta. I do not see that there is any inconsistency or that there is any necessity for making any change.

[*Sir Alfred Croft; the President; Dr. Gooroo Dass Banerjee; the Advocate-General.*]

The HON. SIR ALFRED CROFT said:—This very point was discussed and decided in the opposite sense. An amendment was proposed that instead of "male persons resident in Calcutta" it should be "male persons residing or paying rates in Calcutta," but the hon. member in charge of the Bill was opposed to the change.

HIS HONOUR THE PRESIDENT said:—I think the Hon. Sir Alfred Croft is right in saying that the literal point contained in this amendment was decided before, but it was decided without any reference to those grounds upon which the hon. member in charge of the Bill now proposes to amend what appears to be a contradiction between the two sections. I do not think there is any objection to the question being discussed now. It is a technical amendment,—really an amendment in drafting,—although it does involve a change of the rule on general grounds.

The HON. DR GOOROO DASS BANERJEE said:—I submit that there is really some antagonism between sections 4 and 8 of the Bill; but supposing that there were none, the argument of my hon. friend on my left (Mr. Allen) would go to show that the ground upon which the two sections are proposed to be reconciled is itself a most objectionable ground, and if that ground holds good, this amendment is the more necessary. It is as regards the fifty elected Commissioners that the qualification of residence applies, but as regards the remaining twenty-five Commissioners that qualification is unnecessary. If that is so, you will give greater latitude of selection to the special constituencies, such as the Chamber of Commerce, the Trades' Association, and the Port Commissioners, than you do to the general body of electors. Is that fair?

The HON. THE ADVOCATE-GENERAL said:—It may be said in one sense that section 8 cuts down the meaning of section 4, because it is a subsequent section. Every one of the seventy-five Commissioners must be qualified as in section 4, and then section 8 says that the fifty Commissioners to be elected must come from a more limited class. But, as the hon. member who spoke last has said, all the Commissioners should be of the same class, whether they are elected Commissioners, or Commissioners nominated by the Government or the other special constituencies. If the hon. member in charge of the Bill is right, that a person who comes to Calcutta merely to work at a Government office during so

many hours in the day can be said to have only a transitory interest in the town, the qualification should be so defined that only those should have votes who have a permanent interest in the town.

The HON. BABU KALI NATH MITTER said:—Section 4 provides that the seventy-five members shall be male persons, residing, carrying on business, or personally working for gain in Calcutta, and section 8 says that of the remaining members fifty shall be elected as hereinafter provided by male persons resident in Calcutta. Why should not this section be on precisely the same footing as section 4? The words "carrying on business" have a recognised meaning; there are many decisions of the High Court which have given them a special meaning, and they are better understood than the words "paying rates." I therefore submit that if there is to be any modification at all, it should be on the lines of section 4. But I would point out that an amendment of this sort is not a verbal amendment. It is an amendment which goes to the merits of the section. [His Honour the President—"It has been decided on the merits, but the ground for the amendment is the discovery of a contradiction."] This matter was fully discussed, because my hon. friend opposite (Dr. Gooroo Dass Banerjee) brought forward amendments on all these sections, and the hon. member in charge of the Bill objected to all of them, as he would do to every amendment which might be brought forward. [His Honour the President—"I don't think this particular point was brought forward. We were then not aware of the contradiction in terms. If the fact was as you say, you are right in objecting on a point of order."]

The HON. SIR ALFRED CROFT said:—On the 4th of February last, the hon. member opposite (Dr. Gooroo Dass Banerjee) proposed to substitute the words "residing or paying rates in Calcutta" for the words "resident in Calcutta," in section 8, defining the qualification of voters. Upon this the hon. member in charge of the Bill said:—

"I do not attach any very great importance to this question, but on the whole I think it better to leave the Bill as it stands. As long as the Suburbs and Calcutta were under entirely different bodies, a very large number of persons came into Calcutta from the Suburbs for purposes of business. Now these persons will be in Calcutta, and therefore the amendment will be inoperative; but under the amendment some persons living out of the enlarged Calcutta, such as Howrah or up the line, would still get a vote for the business which they

carry on in Calcutta, and it is on the whole but fair that those who do not reside within the limits of the Municipality should leave the administration of its affairs to those who do."

The business which they carry on includes, I presume, business premises for which they pay rates, and I myself voted in favour of the amendment. I think that only fair; because a man who sleeps out of Calcutta, but carries on his business in Calcutta all day, has just as great an interest in the good government of the town as the man who lives in Calcutta, but carries on his business in the railway yard across at Howrah. On that ground I support the present amendment, as I did the previous one. But when I take the amendment in connection with what the hon. member proposes to move in section 9, I find a difficulty. By that amendment he proposes that any person qualified to vote under clauses (*a*) to (*e*) of section 8, shall vote in the ward in which he resides or pays rates. Clause (*e*) of section 8 says "having paid on his sole account and in his own name not less than Rs. 24 either in respect of rates levied under Chapter IV or in respect of taxes under Part I and Part II of Chapter III." Now Part II of Chapter III refers to the carriage tax and the license tax. We have already discussed the question whether a person who pays the license tax but resides out of Calcutta should vote, and it was decided that he should not vote. So that unless it is clearly understood in section 9 that paying rates does not include paying taxes, this amendment will include a number of persons as qualified to vote who were declared to be disqualified under the previous amendment.

The Hon. Sir Henry Harrison said:—I think it is more than ever necessary that the Council should accept this amendment, not only because it is the only key by which a number of locks in the section which follow can be opened, but because what my hon. friend has just pointed out was specially taken into consideration. I myself do not see any contradiction. Clause (*e*) of section 8 gives everybody who pays taxes to the amount of Rs. 24 a right to vote, provided he is otherwise qualified. Now that qualification will not accrue unless he resides in the town, or pays rates. He can help out his qualification by the payment of taxes, and what was always intended, but the essential qualification must be that he must either reside in Calcutta, or pay rates: if he does not reside, he must pay rates for property. If the Council adopts this amendment, all the subsequent parts of the Act will work consistently, as far as I have been able on a careful investigation to make out. The Chairman has a list of the owners

and occupiers of houses, and prepares the list of voters from that. He does not know whether a particular person resides in the town or not; and if the payment of rates does not give the qualification, the list will contain the names of a number of persons who are non-resident. I maintain that, when the amendment was previously rejected, it was exactly on the opposite ground The hon. member opposite (Dr. Gooroo Dass Banerjee) wanted to introduce the words "or carrying on business," to which I objected: if a man is a mere bird of passage, I purposely did not want to give him a vote. The whole tenor of the voting qualification is the payment of rates; and if you do not insert payment of rates in these sections, it will throw them out of joint; but if the words are inserted, it will bring them into joint again. It may be discussed separately whether this qualification should apply to the fifty elected Commissioners only, or to the whole seventy-five.

The motion that in line 4 of section 8, for the words "resident in Calcutta" the words "residing or paying rates in Calcutta" be substituted, was then put and carried.

The HON. SIR HENRY HARRISON said:—With regard to section 4 in particular, I don't see any good reason why there should be a larger scope for the selection of the twenty-five nominated Commissioners than is given for the fifty elected Commissioners. It is admitted by the vote just taken that the fifty Commissioners must be persons either residing or paying rates. I am free to confess that, if a wider qualification is given to the twenty-five Commissioners, it will work; but that is not the intention, and I think it is better that all the Commissioners should have the same qualifications.

The HON. SIR ALFRED CROFT said:—I think there is a very good reason for making a distinction between the elected and the nominated Commissioners. The qualification to be a Port Commissioner does not consist in residence or the paying of rates, but in being closely connected with the trade and commerce of the port; and the same is true of members of the Chamber of Commerce and of the Trades' Association In these cases there is no need to impose restrictions which are necessary in the case of elected Commissioners.

The motion that in line 11 of section 4, for "residing, carrying on business, or personally working for gain" the words "residing or paying rates" be substituted, was put and carried.

The motion that in line 4 of section 9, after "reside" the words "or pays rates" be inserted, was put and carried.

THE HON. SIR HENRY HARRISON moved that the clause newly added to schedule III be transferred to the end of section 15. He said:—This is really an enacting clause, and ought rather to be attached to the section than to the schedule appended to it.

The motion was put and agreed to.

THE HON. SIR HENRY HARRISON moved that in line 12 of section 31, after "two electors" the words "in each ward in which he proposes to stand" be inserted; and that in line 14, after "eight electors" the words "in each such ward" be inserted.

He said:—This amendment is intended to remove an awkwardness in the wording of the section, from which it might be inferred that a person who gets two electors to propose and eight others to approve his nomination may start as a candidate for several wards; but the words in the section are based on the assumption that he stands for only one ward. It was certainly intended that he should have two electors to nominate and eight others to approve his nomination in each and every ward for which he may wish to stand. I think it is only right that no man should be allowed to stand for a ward unless he can get the electors of that ward to bring him forward.

The motion was put and agreed to.

THE HON. SIR HENRY HARRISON moved that, in line 7 of section 39, after "Local Government" the words "at its discretion" be inserted. This, he said, is really a verbal amendment. It has been pointed out by high authority that as the section stands the Local Government would have no authority to remove a Chairman unless on the recommendation of the Commissioners. I should not have thought that it would have that effect, but as there is no reason for leaving doubtful what is intended, it is better to insert the words proposed in order to remove all doubt.

The motion was put and agreed to.

THE HON. SIR HENRY HARRISON moved that, in Chapter IV and elsewhere wherever the expression occurs in the Bill, for "halalkhor rate" the words "sewage rate" be substituted. He said:—I place myself in the hands of the

Council in this matter. We took the word "halalkhor" from the Bombay Act, but after doing so we adopted a definition of "sewage" which exactly meets the case. To my mind the term "sewage rate" is a better phrase.

The motion was put and agreed to.

The HON. SIR HENRY HARRISON moved that, in line 4 of section 108, the words "by the occupier" be omitted, and that in line 7, for "from the occupier" the words "from the person who pays him rent" be substituted; and that in line 13 to the end of the section, for "rent payable by the occupier, and shall be recoverable by the owner for him" the words "added to the rent and shall be recovered by the owner from the person liable for the payment thereof" be substituted. He said:—The object of these amendments is very much the same as the amendment already adopted in the definition of "owner." The section assumes that there is only one owner and one occupier. If the owner lets his house for Rs. 200, and the assessment is fixed at Rs. 300, the owner can say to the occupier, you only pay Rs. 200 as rent, you must pay the owner's rate on the other Rs. 100, as well as the occupier's rate. That has always been the rule. It is intended that the owner shall not pay the tax on a higher assessment than that for which the house is let. But in the area to be added, especially, the owner may not be the sole owner, but we may have sub-owners. The amendment is intended to save the case which may occasionally occur of a person not being an occupier who pays rent to the owner.

The motion was put and carried.

The HON. SIR HENRY HARRISON moved that, in line 15 of section 122, for "estimated cost of building" the words "estimated present cost of building the house" be substituted. He said:—This is the most important amendment on the list, and in regard to it I must throw myself on the indulgence of the Council, inasmuch as this is a motion which I made before and which was lost. Ordinarily such a course would be unjustifiable, and in fact I do not propose to take it in reference to any of the other motions which I made and were lost, because I have no sufficient reason to offer in regard to them. But for the motion which I now make there are very strong reasons, and if those reasons are considered sufficient, I hope the Council will accept this motion rather than allow the Act to go forth with a serious blot in it. This

section of the Bill, it is well known, has caused more heart-burning than any other of its provisions, and the main cause of this is the fact that a certain class of the community have got off hitherto by paying from one-third to one-half of what they will have to pay under this section, which still will make them pay only about five-sixths of what the rest of the community are paying as rates. We have no reason to be surprised that a provision of this kind should create strong opposition. It is an opposition which would be met with under similar circumstances in any other country in the world. In France, for instance, the old French aristocracy, rather than submit to be taxed, brought on a revolution and their own ruin. It is obviously a self-interested opposition which must be experienced from any class which may be similarly situated. But as a matter of principle, it is the bounden duty of the Legislature to tax all classes alike. But while, as regards the justice of the case, I could not ask the Council to re-open a question which has been previously discussed and decided, when we come to apply the principle which has been adopted we are confronted with real difficulty. We find in England political economists like Mr. Mill and practical statesmen like Mr. Goschen, as well as the Courts of law, recognizing the necessity of some interpretation being put by the Legislature. The reasons given by them are in favour of one of two interpretations, either that the assessment shall be on the market value or upon the present cost of rebuilding the house; but no authority can be found in favour of taking the original cost of building; and so little was I prepared for the possibility of the Council adhering to the latter view that I scarcely directed a single argument against it. I directed my arguments to the principle that either the market value or the cost of rebuilding should be taken. I have the more reason to ask for the reconsideration of this question because I have reason to believe that at least one vote against the amendment was given on the ground that the hon. member thought the section as it stands means estimated present cost, and immediately after the vote was taken the learned Advocate-General drew the attention of His Honour to the fact that the decision was an extremely embarrassing one, because the interpretation which the Courts would be likely to put upon the words "estimated cost of building" would be the very same which the Council had rejected. I hope the Council will see that, having regard to the proper interpretation of these words, we shall

put ourselves into an extremely embarrassing position, because the Courts may still attach to them the meaning which we rejected. On the other hand, the Courts may say, how are we to put a meaning which was rejected by the Legislature? If, therefore, the Council wishes the words to bear the meaning which they intended, that meaning should be made clear.

Now as regards the arguments on the subject. There is a great deal to be said in favour of 5 per cent. on the market value being the test of the assessment. My own impression, after reading much which has been written on the subject, is that this in itself would be the better test; and if we decided to take the market value we should not require the exception which follows. But at the same time we have been advised by those who are experienced in the interpretation of laws that we should be introducing the greatest possible trouble, and therefore on the previous occasion that proposal was abandoned in consequence of the difficulty of rating property, and I will not ask the Council to re-open that question. But when we come to consider the other two proposals, then it is necessary that we should put in the section a defensible instead of an indefensible principle. The more the section is attacked, the more necessary it is that it should not be vulnerable on a point of this kind. Those who oppose the section naturally wish to see a principle incorporated in it which they will hereafter be able to find fault with because it fixes a wrong standard of assessment, but those who approve of the section ought to be on their guard against this danger. A house was built, say, a hundred years ago when materials and labour were cheap; it has been thoroughly repaired several times. What is the money spent upon the house? The original cost would be the cost of building the house *plus* the cost of repairs from time to time; *minus* the amount of depreciation. and that is a completely impracticable test. If labour and materials become dearer, there is no reason why the house should remain at the lower instead of the higher value. It is altogether an indefensible principle. The question for consideration is the worth of the house to whoever gets it. Suppose by some means a person builds a house at 50 per cent. less than any one else could build it. It is evident it will be worth to the owner the whole hundred per cent. The proper test, therefore, is what will the house now cost to rebuild it in its present condition after making the fullest allowance for depreciation. I dare say I shall be excused for again

pointing out the grounds upon which Mill rejects the market value as a fair test. He says—

"When the occupier is not the owner and does not hold on a repairing lease, the rent he pays is the measure of what it costs him, but when he is the owner some other measure must be sought. A valuation should be made of the house, not at what it would sell for, but at what would be the cost of re-building it, and this valuation might be periodically corrected by an allowance for what it had lost in value by time, or gained by repairs and improvements."

This is a much more practical test, and the assessor, who is an experienced officer of the Municipality, could easily estimate according to this rule. If the estimate is disputed, builders and contractors can be brought in who would perfectly well know what the cost would be. But suppose the question is what did that house cost to build 40 years ago? It is perfectly evident that that must be a matter of pure guess work, and even worse, because it would open the door to all sorts of accounts being produced of what the actual cost was, in order to prove that the cost was considerably less than the surveyor's valuation. Whereas if the Legislature puts a proper interpretation, viz., what would be the estimated present cost of rebuilding the house, then you will have a test which can be applied without any extraordinary difficulty, making of course due allowance for depreciation. If the Council will adopt this principle, then I think, with the exceptional clause to which I have referred, we shall hold a defensible position, because on the one hand we take a true and proper test, namely, the actual amount of money in the house, and secondly we say that if a valuation of 5 per cent. upon the estimated present cost is excessive, a less rate can be taken. But if this interpretation of the meaning of the section is rejected, then I think the section will be altogether vulnerable, and it will not be reasonable to hold me responsible for the section which, without this interpretation, I admit will be indefensible. I therefore submit that I have shown sufficient grounds for asking the Council to allow the consideration of this question to be re-opened.

His Honour the President said :—I rather regret that the hon. member in charge of the Bill, in bringing this question before the Council, should have done so in such a way as to re-open the whole policy of the section and invite discussion on the section generally. I think he has very good ground for bringing

the particular point before the Council, which is this. Does the Council mean that the estimated cost of the building should be the present estimated cost, or the estimated cost at the time when the house was built? The reason why I say he has good ground for bringing the question before the Council is that the outside opinion, as well as the opinion of experts generally, is that there is a blot in this section; that you are leaving a question open which ought to be decided; that the probability is that on reading the words "estimated cost" the courts would take the present estimated cost, but that the discussion which has taken place in this Council places a difficulty in the way, and you should say what the interpretation is. Under these circumstances, I think the hon. member has fair ground to ask the Council to decide which of these two views it will take. But if we open up the whole question of this rating clause, I cannot prevent hon. members from discussing it at equal length and with equal seriousness from another point of view. I would ask the hon. members of the legal profession to help us in this matter, both as to what course should be adopted, and also as to which interpretation should be adopted.

The HON. MR. ALLEN said:—In voting against the hon. member's former amendment I was influenced by the conviction that the words 'as they stand at present "estimated cost of building," truly interpreted, could refer to no other time than the time when the estimate is made. If any other time was pointed at, some indication of the time should have been introduced. If the intention had been to look back to the time when the building was put up, the clause should have run thus—"estimated original cost;" or if it was intended to refer to some future time, some words implying futurity should have been inserted. But the words "estimated cost of building" in their simplicity, to an unsophisticated mind, could convey a reference to no other period of time than the time at which the estimate is being made. For that reason, partly, I voted against the amendment. But there was also another reason, namely, this. The amendment as originally stated was to substitute the words "present estimated cost;" but when the hon. member proposed it, he did not seem quite sure whether it should be "present estimated cost" or "estimated present cost," and he kept see-sawing from one to the other, and I was within my right in recording my protest against such vacillation. After having had ample time to considar the point, the hon.

member had not been able to make up his mind. But I am free to confess that now the question stands upon a different footing. The fact that the amendment was lost may be used as an argument for putting on the words of the section a construction different from what I still consider their proper meaning, and therefore I am quite willing to vote for the present amendment; but I think the hon. member would obtain all he desires by simply prefixing the two letters "re" to the word "building," so that it should read—the estimated cost of *re-building.*

The HON. BABU KALI NATH MITTER said:—I must oppose this motion. This question was fully discussed by the Council, and the Council deliberately rejected the amendment proposed by the hon. member in charge of the Bill. The question was fully discussed, and we came to the conclusion that this amendment would be worse than the provision which is now in the Bill. We understood the meaning of the section to be the estimated cost at the time the house was built. Several hon. members of the Council met together, discussed the question, and came to the conclusion that they should oppose the amendment. Two of our hon. colleagues are now absent, and I think it extremely unfortunate that a matter of this sort should be brought forward again at this time. On that ground I also oppose the amendment, because it will not now have that amount of attention which it would have otherwise received, and which it received before. Who can say on what grounds those two gentlemen voted against the amendment. The cost of rebuilding now the large buildings erected in former times would be simply fabulous, and under the method of assessment proposed here, the owners of those houses would not think of building them. There are old buildings in the town which cover from five to ten bighas of land, and how unjust would it be to assess such buildings at 5 per cent. on the estimated present cost of building them, which would perhaps be a hundred times more than when they were built. I submit that a proposal of this kind should not be allowed to be brought at this time, especially as the matter was thoroughly discussed at a full meeting of the Council, and also because it has been brought forward without the slightest previous intimation. All the intimation the Council has had is that the hon. member has obtained Your Honour's permission to bring forward verbal amendments. But this question, I submit, has already been settled, and that it is not competent for the Council to re-open it,

[*Babu Kali Nath Mitter; Dr. Gooroo Dass Banerjee; the Advocate General.*]

principally on the ground that two hon. members who voted against it before, are not now present.

The HON. DR. GOOROO DASS BANERJEE said:—While I fully admit the necessity of having certainty in the law, and of avoiding uncertainty or any possible chance of it, I am still bound to oppose the amendment, and for this simple reason. Unless the question is discussed fully in the Council, and unless the Council is prepared to go fully over the same ground again, we cannot do justice to this particular amendment. The remarks of the hon. member in charge of the Bill clearly went to show that this amendment imperceptibly glides into the other amendment, viz., whether we ought to have the market value instead of the estimated cost. It has been said that the use of the word "value" applied to anything, is what it is worth to the owner just now, and not the money which it cost him years ago. If that is so, that brings us very near the other matter, namely, the market value. If we do not adopt the market value, there is hardly any reason why we should have the present estimated cost rather than the actual cost of the building or house when it was built. Then there are other difficulties in the matter. With regard to old buildings to which one of these provisions would apply, the materials of which they were built are practically historical now. Some of these houses were built of bricks only six inches long, none of which kind are now to be found, and it would be very difficult now to say what the value of those six-inch bricks would be. Then, again, we have many old houses with low windows and small doors which are of no value now, and if we are to apply the present cost of building with reference to these houses, we shall be exaggerating their value beyond measure. Would it be fair to apply the present raised standard value to houses which would not agree with the tastes of the present day at all? These are all serious objections which I have pointed out.

The HON. THE ADVOCATE-GENERAL said:—I have to submit that those who oppose this amendment are making a mountain of a mole-hill. As I understand this matter, the amendment has arisen entirely out of a mistake which the hon. member on my right (Mr. Allen) acknowledges, at all events to this extent, that in voting against the inclusion of the word "present" he did it for the reason that this section as it stood read as if the word "present" already existed, and that that word was superfluous. That was the main

ground on which he voted, and I believe I am right in thinking that my hon. friend Mr. Reynolds was actuated by the same reason. It is clear, therefore, that these two hon. members, if it had been brought to their notice that the omission of the word "present" introduced an ambiguity, considering that they were voting for the section as against the opposite view, would undoubtedly have voted for the inclusion of the word "present." At the time this motion was lost, I immediately perceived that a mistake had been made. Every member who voted for it intended that the rate should be on the present estimated value, and yet the word "present" was struck out. There were two questions before the Council then, as I understood the subject The hon. member in charge of the Bill, who presented, I think, very forcibly and very fully a fair view of the case, said this:—In assessing a house we must proceed on the present value of the house: the present value of the house and land will determine the amount of the assessment. He said there were two ways of determining the present value. One is the market value; the other is the present estimated value deducting a certain amount for depreciation. These were the two questions he formulated. The estimated letting value was excluded altogether, because it had been found to be a fallacious test. The test of the market value was, I think, rightly abandoned for the reasons stated by the hon. member on my right (Mr. Allen). He pointed out that there was no market value, which is a value obtained by a certain multiple of the letting value, which is an unknown quantity. Under the Land Acquisition Act, the Courts had decided that the value of house property in Calcutta is sixteen times the letting value; but as these buildings have no letting value, the assessment on the market value was abandoned. I submit, therefore, that the market value cannot be taken as the basis of assessment. We are thus forced to accept the present value as the basis. Any one who in opposition to that basis supports the position that the original cost should be the test, would in my opinion be dreaming of applying a test next to impossible, for it would be idle to suppose that at this present moment you could get evidence of what the original cost of a house built 50 or 60 years ago actually was. Such an idea I believe never entered the mind of any hon. member; those who oppose the amendment are trying now to support a view which was not thought of before. If you consider the two principles,

whether the assessment should proceed on the original cost of the building or upon the probable letting value, the test of the original cost would land the Commissioners in as great a difficulty as the letting value. That test being left out of consideration, the Council clearly intended that the assessment should be on the present estimated value. But the wording of the section created an ambiguity; and that being so, the hon. member in charge of the Bill, when he found that the wording was ambiguous, deemed it his duty to remove all ambiguity and to render the meaning of the section clear and definite. Can that be said to be a re-opening of the whole discussion? I submit not; and I therefore contend that this is only a desire on his part to do that which he was bound to do. There is a great difference between re-opening a discussion, and simply asking the Council to express that which it really meant; there had been an unfortunate omission, and he desired to correct it; and it is as much in the power of the Council to do that as to correct a word which has been misspelt or a wrong word which had crept into the Bill.

The HON. SIR HENRY HARRISON said:—I regret if I have in any way opened out the discussion in a wider sense than Your Honour thought it desirable; if I did so, it is due to an obscurity in expressing myself. What I did intend to press upon the Council was that, seeing that this has been such a controverted section on grounds which are perfectly explicable; seeing that it is the one section in the Bill on which attention will be concentrated more than on any other, its meaning and intention should be made as clear as possible. The only question I intended to open out is this. I think this discussion has abundantly proved that in reality the majority of the Council did recognise the proper test to be the estimated present cost of building the house, and in fact the hon. and learned Advocate-General seems to consider that it is utterly impossible to interpret the section in the opposite view. And I also pointed out that the vote took me by surprise. It occurred to me that the whole of the motion I brought forward on the previous occasion might be rejected, that the majority of the Council might be in favour of taking the market value as the test; but it never occurred to me that the test of taking the original cost would be adopted as against the estimated present cost. I assumed that if the test of the market value was rejected, the estimated present cost would be adopted, because those were the only two intelligible and defensible solutions of

the difficulty. I regret very much that two hon. members of the Council are absent; but it seems hardly right that we should send this Bill out to the public with an admitted blot in it, a blot which my hon. friends would be the first to press upon us. They would fasten on this and drive us into a corner in consequence of the indefensible wording of this clause. It therefore seems to me that the Council would be acting in a very unreasonable manner if, on a question of interpretation, it refused the indulgence of re-opening the question with a view to state clearly what the section is intended to mean. I admit that I am asking the Council to do something very exceptional, something not justifiable except on irrebuttable grounds; but I think I have really made out the strongest ground for what I ask the Council to do.

His Honour the President said:—I feel myself in a position of some little difficulty as to putting the question before the Council, for I think the hon. members opposite have a strong argument to urge that they have not been allowed to re-open, in their own interest, the discussion of the whole question. But in this particular matter we ought to look at what really happened in the Council on the occasion to which reference has been made. Then, the substitution of the words "estimated cost of the building" for these words "estimated present cost," was proposed by the hon. member in charge of the Bill, and not a word was said about it. Neither was the question of the actual interpretation of the law considered in the previous discussion as to what would be the interpretation of the words "estimated cost of building." We have learned that at least one hon. member voted against the amendment, not because he considered that the interpretation the hon. member in charge of the Bill wished to put upon it was wrong, but because he thought the amendment was superfluous, and that the section could mean nothing but what it was desired it should mean. How many hon. members followed and took the same ground is more than I could say. But I have to point out, with reference to the observation of the hon. member opposite (Babu Kali Nath Mitter) that two hon. members who voted against the amendment were now absent, that I have before me the division which was then taken, and I find from it that the Hon. Moulvie Abdul Jubbar voted for the amendment and the Hon. Mr. Moore voted against it. Practically those two votes cancel each other, and the question therefore concerns not the members who are now

absent, but those who are present. I have to choose between two unpleasant alternatives—to let the Bill go forth with a very great blot in it, leaving an ambiguity which the Council know is an ambiguity, and which, if not corrected, will lead to great trouble in the future; or, I will not say to strain a point, but at all events to bring before the Council the reconsideration of a point which I confess is a little more than technical. Under these circumstances, I think it is my duty to let the motion go to the vote.

The motion was then put to the Council and carried on the following division:—

Ayes 6.	*Noes* 4.
The Hon. Mr. Pratt.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Sir Alfred Croft.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Sir Henry Harrison.	The Hon. Babu Kali Nath Mitter.
The Hon. Mr. Allen.	The Hon. Mr. Macaulay.
The Hon. Mr. Reynolds.	
The Hon. The Advocate-General.	

The HON. SIR HENRY HARRISON moved that between clauses 4 and 5, line 29) of section 138, the following be inserted:—

"When there are gradations of owners or occupiers, and doubt exists as to who is entitled to be registered as owner or occupier of any premises, the Commissioners shall determine which of the several owners or occupiers is entitled to be registered as such, and their decision shall remain in force for the purposes of this Act till set aside by the order of a competent Court."

Also that, after section 448, the following new section be inserted:—

"Whenever by this Act any right is conferred or duty imposed on the owner or occupier of any premises, and doubt arises owing to there being gradations of owners or occupiers as to who is the owner or occupier entitled to exercise such right or bound to perform such duty, the Commissioners may, after due enquiry, determine from time to time which of such persons is thus entitled or bound:

"Provided that, if one of the persons regarding whom doubt exists is registered under section one hundred and twenty-eight as owner or occupier, such person shall be entitled to exercise such right or bound to perform such duty till his name has been duly removed from the register."

He said:—The Bill is full of rights conferred and duties imposed on owners and occupiers. They have the right to vote; the Corporation has the right to compel them to take certain order with their premises, &c.; but at the same time in the area now to be added to Calcutta we may have difficulty in determining

who is the person where there are several grades of owners, and similarly in the case of occupiers. Suppose a house is let to A, who leaves Calcutta and lets the house to B, which of the two is the "occupier"? There should be some mode of solving the difficulty. I propose in the first instance to give power to the Commissioners on due enquiry of deciding who is, for the purposes of this Act, the owner, or who is the occupier, amongst the various grades of owners and occupiers. Subject to certain limitations, if one of these owners has registered himself as owner, we hold him to be the owner for the purposes of rating and performing the duties required of him; but suppose more than one person has so registered himself, then it is necessary to have some means of deciding which of these is for the purposes of the Act to be considered the owner, and therefore I propose to introduce a clause providing that the Commissioners shall decide which of them shall be considered the owner, leaving the owner who thinks himself aggrieved to go to a competent Court and establish his right to be registered. If we have the owner and occupier registered, we can deal with them in the first instance. It is obviously necessary that there should be some means of deciding, in case of doubt, which of several grades of owners is to be considered the owner, and I therefore ask leave to move these two sections as the best solution which I can suggest.

The motion was put and agreed to.

THE HON. SIR HENRY HARRISON moved that the words "so far as may be reasonably practicable" be transferred from line 4 so as to stand after "Commissioners" in line 1 of section 153. He said:—It has been pointed out that these words are so placed in the section as to make a great anomaly, because the easier task of supplying water at low pressure is only made obligatory so far as may reasonably be practicable, but that condition will not apply to the keeping up of high pressure at 30 feet, which will be a far more difficult task under certain circumstances. Therefore it will be better to put the qualification into the forefront of the section, so that it shall apply to the whole section, instead of only to the supply of water at low pressure. So far as is practicable we are now bound under the present Act to supply water at a pressure of 50 feet, and although at the pressure gauge that pressure can easily be kept up, the pressure in houses even to half that extent cannot be maintained, and yet no one has brought any suit against the Corporation, and the section might probably stand as it is without any fear of our being molested.

But the fact of attaching the qualification to what is by far the easier task and leaving it out in respect of what is more difficult, is an anomaly which, I think ought to be corrected.

The HON. THE ADVOCATE-GENERAL said:—I shall oppose this amendment. I think the Commissioners are bound to give water at a pressure of 30 feet between 6 o'clock and 8 o'clock in the forenoon. I think a discretion may be allowed to the Commissioners in respect to one of the modes of supply, but I think one portion of the requirements of this section should be imperative. I therefore object to transferring the words "so far as may be practicable." The hon. member in charge of the Bill has advocated very forcibly the interests of the Corporation in raising taxation, but he should also bear in mind the interests of the public.

The HON. SIR ALFRED CROFT said:—The whole discussion on this subject outside the Council has understood these words as applying to the second clause of this section equally with the first, and I was surprised to find that the hon. member in charge of the Bill allowed the words to remain in what was evidently the wrong place. The sword of Damocles has been hanging so long over the head of my hon. friend that he has lost all fear of its falling upon him; but it will clearly be better to protect him against the consequences of an accident.

The HON. SIR HENRY HARRISON said:—If this provision is going to be put into force, it will in some cases be found impossible to drive the water to all houses up to a height of 30 feet, especially after the occurrence of a fire, when as much as half the day's supply may be consumed in the course of a few hours. I do not think I am unreasonable in asking the Council to adopt this amendment.

The motion was then put and carried on the following division:—

Ayes 7.	*Noes* 4.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Babu Kali Nath Mitter.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Sir Alfred Croft.	The Hon. T. T. Allen.
The Hon. Sir Henry Harrison.	The Hon the Advocate-General.
The Hon C. P. L Macaulay.	
The Hon. H. J. Reynolds.	
His Honour the President.	

So the motion was carried.

[*Sir Henry Harrison.*]

The Hon. Sir Henry Harrison moved that section 412 (*c*) be worded as follows:—

"The deposit, whether in the public street or otherwise, of rubbish and offensive matter, the removing and carrying away of the same and charging the person responsible for such deposit with the expenses of removing it."

This, he said, is an amendment regarding the framing of bye-laws. We are entitled to make bye-laws for the removal of refuse, and especially trade refuse; and a bye-law was passed making the deposit of trade refuse on the streets without a license punishable; but it was held that the passing of such a bye-law was *ultra vires* under the present Act, and we are in some cases driven to the necessity of removing such refuse from the houses of traders, or of leaving it there as a nuisance to the neighbours. That especially happened in the case of a certain large cow-house, the owner of which would not pay for the removal of the refuse, and would not throw it out on the streets, because it was pointed out by some that the word "deposit" in the section would be read as depositing it on the streets, and therefore the bye-law would not hold good. It is therefore, I think, desirable to amend this section so that the word "deposit" shall be interpreted to apply to deposit whether on a public street or otherwise. I think this a perfectly reasonable proposal. There is no reason why a tradesman should escape because he keeps the refuse within his house.

The motion was put and agreed to.

The Hon. Sir Henry Harrison moved that the Bill be now passed. He said:—After the discussion we have had to-day, and having regard to this late hour I daresay the Council will think it unnecessary for me to make any long speech on this occasion; but if it is necessary for me to do so to meet any objections which may be raised, I shall have an opportunity of doing so before the vote is taken. For myself I know that the Bill has caused a great deal of vexation and irritation, but I can only say that I have endeavoured to be studiously fair in the provisions bearing on the questions of taxation or of the public burdens, and I believe also that with regard to the constitutional question we have carefully considered the claims of all sections of the community and have steered a fair middle course, guiding ourselves mainly by the experience gained in the past. I do not think the Bill at all deserves the imputation of a one-

aided Bill, and I believe that, as far as possible, it is fair to all parties and interests in the Corporation. I admit that in the sections regarding building regulations and bustees new burdens are placed upon the owners of property, but these I believe to be necessary. It is undoubtedly necessary that the owners of property should discharge their duties in connection with that property. It is well known that the value of land has increased to an enormous extent, partly on account of the trade and commerce of Calcutta, and partly on account of the improvements which the municipality has effected. The fresh burdens imposed on owners by this Bill are a mere drop in the ocean as compared to the additional value which the land has acquired in recent years. Therefore, as far as concerns the operations of the municipality on the value of property, it is clear that we are making a fair and legitimate claim if we ask owners to perform such duties as are performed in all civilised communities by the owners of property for the well-being of the community. The true objection to the sanitary sections of the Bill is that they will be found to be almost inoperative. They should not be so, but the difficulties for some years to come will be very great. I am hopeful that the working of this Act will in a very short time tend to diminish the apprehension with which it is now viewed. Of course in regard to those whose apprehension is that they will have to pay an equal share of taxation it cannot do so, but in all other respects I am sanguine.

The HON. BABU KALI NATH MITTER said:—I am constrained to raise my opposition to the Bill being passed in its present form. I am quite aware that my opposition is a feeble one and will be of no avail; still I deem it my duty to place upon record, in the most distinct terms possible, my opposition to the passing of the Bill. Perhaps Your Honour is aware that to some extent, if not to a material extent, I aided in the passing of a resolution in favour of the amalgamation of the Suburbs with the Town. After that resolution was forwarded to Your Honour's Government, a Committee was appointed to prepare a scheme for the amalgamation, of which I was one of the members, and in that Committee also to some extent I aided the scheme. Again when this question was brought up in Council, I gave my vote in favour of the introduction of the Bill. But at the time I did all this I had not the remotest idea that the series of amendments I subsequently brought forward would meet with the fate they

did. I thought some regard would be paid to the opinions expressed by persons capable of forming opinions on matters of this kind. I thought that the opposition raised by communities which are capable of judging in matters of this description, would weigh with the Council. But I find that the clauses of the Bill have been adopted in total disregard of the representations made by the Municipal Commissioners, the members of the British Indian Association, the Indian Association, and the residents of Calcutta who called a public meeting and presented a memorial on the subject. The various amendments which I moved have shown the nature of my opposition to the Bill; but it does not follow that I ever expected that all these amendments would be carried in Council. It may be that I have been very unreasonable: so unreasonable that out of a series of amendments extending over a hundred and fifty, only some minor and unimportant amendments (I think there were three) should be carried. But my experience is that in other places, when I have the privilege of moving amendments, more than seventy per cent. of them have been carried, and therefore it was a perfect surprise to me that this Council should have thought fit to reject amendment after amendment which I had the honour to lay before them. Of course my hon. friend the mover of the Bill is responsible for it, and the responsibility will rest with him so long as this Bill remains law. I have, however, every hope that before many months elapse the Municipal law will have again to be placed on the anvil of legislation. I have no doubt that, to long as my hon. friend is at the head of the Municipal Corporation, he will, if this Bill is passed, do his utmost to work the law in the best manner possible. But will his successor do the same thing? That is a point on which I have serious doubt. The innovations which have been introduced in the constitution of the Corporation, the various duties which the Commissioners will have to perform, the inadequacy of the funds placed at the disposal of the Commissioners, are all matters on which amendments were proposed by me. It will be useless to take up Your Honour's time and that of my hon. colleagues by referring in detail to the various matters which have been discussed. All I need say is that the Bill in its present form will be unworkable; many of the sections passed will remain dead-letters, but if they are not allowed to remain a dead-letter, the hardship and oppression that will result will be intolerable. The sanitary provisions introduced into this Bill will, if carried out, bring about a change which is to be deplored. It will be possible also to interfere with the religious

sentiments of the people under the provisions of this Bill; it will be possible to interfere with private rights beyond all measure; it will be possible to deprive people of their property where even there is no absolute necessity for it; it will be possible to put parties to endless trouble and annoyance when they apply for sanction to build a house in Calcutta; and it will be possible to open a wide door for the levy of blackmail. I will remind Your Honour that, during the administration of one of your predecessors, a Municipal Bill was passed by this Council in total disregard of public opinion and in total disregard of the opposition raised in different quarters; and the fate of that Bill was that it was vetoed by the Viceroy. The noble Statesman who then ruled over the Empire, in vetoing the Bill, said this:—After enumerating his objections to the several new taxes sanctioned by the Bill, His Excellency said:

"Apart from these objections to particular portions of the Bill, His Excellency can only regard the whole measure as calculated to increase municipal taxation in Bengal, and he believes that such an increase is unnecessary and inexpedient at the present time." His Excellency added: "It is true that many of the provisions of the Bill to which His Excellency objects are permissive, and depend for their introduction upon the exercise of the powers committed to the Lieutenant-Governor of Bengal. The present Lieutenant-Governor has expressed his intention to use with great caution and reserve the power which would be placed in his hands; and His Excellency cordially agrees with the sentiments expressed by His Honour that it is unwise 'to push far sanitary and other regulations which may affect some future good at the cost of great individual vexation;' and that in introducing such regulations we must recollect 'not only that our knowledge of these subjects is yet imperfect, but also that much regard must be had to the habits and feelings of the people, which, even in Europe, and still more in this country, are opposed to great innovations in matters affecting their daily lives in their homes and neighbourhood;' but, while entirely concurring in these views, His Excellency must, in dealing with the Bill, look rather to the powers which it confers than to the extent to which for the present it is proposed to make use of those powers. If he objects to any material provisions contained in a proposed law for which his assent is required under the Indian Councils Act of 1861, it is not sufficient for His Excellency to be informed that the officer invested with discretion as to their introduction considers that action should be suspended or deferred. No feeling of confidence in the discretion of any one man, in whose power the administration of a law may for the time being be placed, would, in His Excellency's opinion, justify him in assenting to a measure, to any essential provisions of which, if fully brought into operation, he entertains such serious objections as he does to some of those which are contained in the Bengal Municipalities Bill."

I hope and trust that when this Bill is submitted to His Excellency the Viceroy it will meet with the same fate as did the Municipal Bill of 1874. For myself I cannot be a party to an Act which, under the garb of law, sanctions the spoliation of private property. I cannot be a party to an Act which is likely to interfere with the religious feelings of the people, which will materially affect the inherent rights of private property, which authorises legal presumptions being raised contrary to all the principles of the law of evidence, which authorises the forcible detention of private property after it has been improved by municipal agency, and, above all, which authorises a method of assessment which is unknown and which will injuriously affect the owners of property who are also occupiers of them. Under all these circumstances, I cannot refrain from emphatically entering my protest against the Bill being passed in this form.

The Hon. Dr. Gooroo Dass Banerjee said:—I regret that I also am constrained to oppose this motion. I am fully sensible of the fact that the objections I have to urge against several provisions of the Bill have all been considered by the Council, and though I have not been more successful in my amendments than my hon. friend, still I deem it my duty to thank Your Honour and my hon. colleagues for the patience and attention with which my feeble words have been heard. If I have been unsuccessful in my amendments, the only thought which oppresses me is that the objections I have urged had not a better advocate; for so strong is my conviction as to the justice of my objections that I cannot help thinking that they would have prevailed if only my case had been better put. I say this with all respect for my hon. colleagues. I may add that in the compensating economy of nature I have had an advantage which perhaps my hon. colleagues had not, for my respect for their judgment and my diffidence in my own have made me devote the most anxious attention to every point in which I differed. But I should be wanting in sincerity if I were not to say that the result has been to confirm me in my own opinion. And the reason is not far to seek. I and my hon. colleagues have viewed matters from very different points of view. An ideal standard of improvement and progress has been the sole aim of my hon. colleagues, while I, on the other hand, though yielding to none in my earnest desire for sanitary and other improvements, have had much of my eagerness for improvement restrained by the stern realities of our situation, of which,

I venture to think, I can form some opinion. I find, for instance, that with our limited funds, with only a doubtful and very remote chance of the duty on petroleum being allowed to be levied, the amalgamation scheme is not likely to prove a success, while it will prove oppressive by raising the taxation on the poor population of the Suburbs without giving them a *quid pro quo* in the shape of municipal improvement. I find, again, that the reduction in the popular element in the constitution of the municipality which will result from the operation of the scheme of plural votes and special constituencies, will not only interfere with the popularity of our municipal administration, but will render the enforcement of the new stringent building and other regulations attended with considerable hardship. I find, again, that some of the provisions of the Bill are characterized by an utter want of regard to private rights. Then, again, I find that there are certain sanitary regulations in the Bill which will interfere so largely and so minutely with the daily life of the rate-payers as to be wholly unsuited to the circumstances of the country, and to be repugnant to the feelings and sentiments—religious, social and domestic—of several large sections of the heterogeneous population of the metropolis. I find that the Bill has these and many other objectionable features, which are so strong to my humble apprehension that I think I shall not be doing my duty if I were not to record my respectful but emphatic protest against the passing of this Bill into law. My only apprehension was lest by so doing I might stand in the way of improvement and progress; but I am relieved of that apprehension from these considerations. I think the existing law is quite sufficient for the present, and for a quarter of a century to come, for Calcutta; and if something is wanted for the Suburbs, it is not so much a new law as additional funds; and if therefore Your Honour's Government grants to the Suburban Municipality the pecuniary help that is offered to the amalgamated municipality, improvement in the Suburbs would follow as fast and as efficiently as under any scheme of amalgamation.

The HON. SIR ALFRED CROFT said:—I think that the significance and importance of the opposition to this Bill which has been expressed by the two hon. members who have just spoken can hardly be overrated; representing, as they claim to do, that community whose interests are chiefly affected by the measure. Still, it seems to me desirable to examine a little closely the objections which they have raised and the charges which they have brought against the Bill. The objections which have been raised are of two kinds, representing

two different and even inconsistent sets of ideas. One class of objections condemns the Bill because it allows too much power to the municipality; the other class condemns it because it allows too little power to the municipality and gives the Government too great a power of control. The first class of objections refers to such provisions as the building and bustee regulations, regulations to prevent overcrowding and the spread of infection, the right to acquire land for the public benefit, and matters of that kind. The course of debate on all these questions involving an increase of the powers of the municipality, has been marked by one special character, which is no doubt present to the minds of members of this Council. It is that to which reference was made by the hon. member on my left (Baboo Kali Nath Mitter), when he said that he did not expect his amendments to be carried because of the persistent majority in the Council. I must say that it was not altogether a pleasant thing for the members of that majority to find that on so many occasions when a division on these questions was taken, there were eight European members on one side and four native members on the other. This was by no means uniformly the case, but it occurred often enough to give the fact significance. The fact is a perplexing and painful one when we consider that this Bill affects the interests of natives of this country much more widely than it does those of Europeans. But what is the explanation of that majority? I have read the public papers, and I see that it is sometimes called the official majority. It is only necessary to mention that, in order to discard the idea that there has been anything in the least degree approaching to official coercion or influence exercised. The true reason of that majority I take to be that those who constitute the majority are Europeans who really believe in municipal government, while you who oppose it do not believe in it, or at any rate not to the same extent. Looking at it in that light, I see no difficulty in finding an explanation of the majority. Belief in municipal government is natural to Englishmen from their birth; they have been fighting and struggling for it for five or six centuries. With the people of India, on the contrary, it is an exotic; it has been only recently introduced among them; it has not grown with their growth, nor strengthened with their strength. And if they are reluctant to press it on too quickly, if they are inclined to put off for a quarter of a century what we regard as necessary reforms, it only shows the difference between those who believe in municipal government,

and those who are reluctant to believe in it because it is not a part of their birthright. What we understand about municipal government is this, that people who live in a municipality must learn to subordinate their individual interests to the general good, and that this subordination has to be enforced not only in matters of private freedom, but also in respect of private property. That is of course not peculiar to municipalities, but is common to every form of civil government. The practical question is, where will you stop? With regard, for example, to the provision as to overcrowding in private houses, we maintain that we are doing what the Legislature has a right to do; while hon. members opposed to the Bill deny that. Therefore the question comes back to this: what are the limitations to municipal freedom? The opposing members maintain that a municipality has at any rate no right to interfere in private and personal matters of that kind; and in support of their contention they declare that their opposition is shared by the whole of those who will be affected by the Bill. I very much doubt whether they have any solid ground for making such a claim; and on that point I will read to the Council an extract from a Bengali paper called the *Sanjivani*, which, next to the *Bangabasi*, has perhaps the largest circulation amongst the vernacular papers in Bengal. That paper says:—

"Section 122, which imposes a 5 per cent. rate upon the estimated cost of dwelling-houses, is a very good provision. It will do away with every anomaly now existing in connection with the assessment of rich men's houses; for those houses are now assessed more lightly than the houses of poor and middle class men, and it is very surprising that the poor rate-payers of Calcutta have joined with the rich in protesting against a provision which is so equitable from their own standpoint. Objection has also been taken to this provision by saying that it may serve as a deterrent to those who would otherwise build spacious rooms to live in, and that the cause of sanitation may thus suffer harm. But if the best way of improving the sanitary condition of the town be to clear bustees of all their poor occupiers and to build thereupon palatial residences and let those that build those residences pay only half as much in the shape of taxes as had been paid by the evicted poor, why not abolish the Municipality altogether, and declare the few rich men of the town its absolute proprietors?"

So much for the rights of private property. Then with regard to personal freedom it goes on:—

"The sanitary sections, which will invest the Executive with the power to declare buildings to be overcrowded or unfit for habitation, are also very good and reasonable. If the provision as to overcrowding be condemned on the ground that its working may be attended

with hardship to the poor people, the very taxation of poor people must also be condemned; and if it be considered wrong not to allow a man to live in a house which is unfit for habitation, it must also be wrong to prevent the man from committing suicide who is about to do so, or to punish him for attempting to kill himself."

These are reasonable arguments, put forward by a paper which is the representative of a large and influential class of the population of Bengal; and in face of these objections I do not see how it can be contended that the inhabitants of Calcutta are unanimous in their opposition to the Bill.

Next, there is the other class of objectors—those who base their objections to the Bill on the ground that it confers too great powers of control on the Government, and needlessly limits the powers of the Corporation. The sections now objected to are those which relate to the proportion of nominated Commissioners, to the appointment of the Chairman by the Government, and also more particularly the control sections; and it is claimed that at this stage of its history the Municipality of Calcutta should be left, if not entirely, yet to a great extent free from the control which these clauses impose. The question, therefore, arises, should we be safe in allowing this claim? For my part, I confess that I see no ground for any strong expression of dissatisfaction with the Corporation of Calcutta during the years it has been in existence. Speaking as an occupier, I should say that the Municipality is well governed, it is well watered, well lighted, well drained, well watched; in fact in all those points by which one can judge of the success and value of a Municipality, the Municipality of Calcutta comes out well. But successful as the Corporation has been in the past, the Calcutta Municipality is still a young institution. It has not had an existence of five hundred years as municipalities in England have had. Its life extends only to a period of ten or twelve years as an elective municipality; and however thriving it may be, whatever promise of future strength and stability it may give, it is still in the stage in which it is liable to infantile diseases and infantile caprices, and to that liability it will be subject until it has taken far deeper root in the convictions and the daily life of the people. There is every reason to hope that it will go on improving; but still the Government would be neglecting a clear duty if it abandoned those functions of supervision and control which are necessary to keep the Calcutta Municipality in the straight path in which it is going. The conditions of Calcutta are indeed so exceptional that it is essential for the

Government to exercise a watchful control over its sanitary state. To refer to a recent incident, a few weeks ago Sir Donald Wallace accompanied the Viceroy when His Excellency went to see some of the less wholesome parts of Calcutta. A day or two after, Sir Donald Wallace had symptoms of cholera. Some people because they believed it, others perhaps because they were glad to have a fling at the Municipality, attributed the attack to the fact of his having accompanied the Viceroy to these unsavoury places. But if, instead of His Excellency's Private Secretary, it had been the Viceroy himself who had been attacked, the name and reputation of Calcutta throughout Europe are not so secure but that you would have found every newspaper in Europe ringing with indignant denunciations of the supineness and folly of the Government in allowing a plague-spot like this to remain uncleansed. Therefore I say it is imperative on the Government to retain the powers of control which are given to it in this Bill. I have referred already to those objections which have been raised to the Bill because it gives the Municipality too much power in enforcing sanitary arrangements. That implies a want of faith in municipal government; and the fact that these objections have been raised seems to me to supply another reason for insisting upon those powers of control which the Bill provides. Those who hesitate to give the Municipality large powers in sanitary matters are not the persons who may be trusted to work them as vigorously as the case requires. Municipal institutions are one of those advantages which India owes to the foreign government of England; and no discredit attaches if they have not as yet advanced to that degree of stability that is found in the country of their origin. But the effect of the introduction of municipal government has been that sanitation and everything else has improved, and I hope will go on improving; and as regards the objections to this Municipal Bill I trust they will soon disappear. The most violently abused reforms of yesterday are the accepted principles of to-day. Look at the stormy opposition which was raised to the introduction of the water-supply and the under-ground drainage, and now these are looked upon as the greatest of blessings. And I have good hope that when in the course of years this Bill again comes under revision, the inhabitants of Calcutta will have found that it has worked smoothly and well, and that the objections which are now raised to it will have altogether disappeared.

The HON SIR HENRY HARRISON said:—In closing this debate I only wish to say two things. *First*, I thank Sir Alfred Croft for reminding us that this is

not the first occasion on which a very large and influential community in Calcutta has been extremely bitter against a certain proposal. We had in the opposition to the water-supply an exact counterpart to the opposition which is now raised by the identical community who were willing to do everything in their power to prevent it, and now they admit that there has never been any more beneficial work than the water-supply of the town. In the same manner, leaving aside the question of individual interest, I am strongly in the hope that, as years roll by, the other provisions in this Bill which have excited so much opposition will be found to have worked for the well-being of Calcutta. But apart from that I but give expression to my inmost conviction when I say that the impression that I have formed, more than anything else from my seven years' connection with Calcutta, is that the wealth and prosperity of the town are absolutely bound up with its commercial prosperity. It is absolutely by its trade, its commerce, and its industries, that Calcutta is what it is. Throughout these protracted proceedings all the objections which have been taken really turn on this, that the Bill has carefully watched the interests of the industries of Calcutta in their widest sense, and the contention has usually amounted to this, that those interests ought to give way. And, besides that there is another very large class whose interests deserve to be carefully watched. I mean those thousands of the labouring community who are in a lower degree the life-blood of Calcutta, and who, it is only true to say, have entirely gone to the wall in the municipal arrangements of the town. I believe this is the only town in the world in which we take rates on the almost rack-rents paid for huts and make them the foundation of assessment, and in addition to that we have another system by which we impose a rate on huts for one kind of service which amounts to no less than 10, 15, or 20 per cent. on the rent. I know that these classes have no voice. I shall get no thanks from them, and they will probably follow their natural leaders in the opposition which has been raised to this Bill. But though these classes have no voice, and will probably not be conscious of the benefits done to them, yet I felt bound to think of their interests. The whole system of the consolidation of the rates has been framed largely with the view of relieving them of the burdens from which they suffer. The Bill itself is no doubt beset with difficulties. The amalgamation is perforce a work which cannot be carried out without great friction and dissatisfaction. To suppose, therefore, that the passing of the Bill will lead to immediate

amendment or satisfaction is absurd. A new Bill like this, introducing a variety of new elements and, above all, largely increasing the jurisdiction of the town, must necessarily at the first start lead to embarrassment and friction in many ways; but when those particular difficulties have been overcome and the machinery of the new Act has been brought into fair working order, it will lead to considerable improvement in the municipal administration of the town, and, impressed as I am with that hope, I ask Your Honour to put the motion to the vote that the Bill do now pass.

HIS HONOR THE PRESIDENT said:—Before putting the question to the vote, I wish to be allowed to say a few words on the general aspects of this Bill, and on the remarks that have fallen from the Hon. Members opposite. It were idle to deny that the Council is in regard to this Bill by no means in harmony with a large body of native public opinion in Calcutta. There is no doubt that to one very influential element of the community the Bill is distasteful, because it does not go far enough in relaxing the bonds of Government control and interference; it does not reduce the proportion of nominated members; it does not provide for an elected Chairman; it does introduce a power of effective control by the Government. Another large and influential body object even more strongly to those provisions of the Bill, which give the Commissioners power to interfere with private property for the benefit of the community; the power of regulating buildings and enforcing sanitation, and above all, probably, the provision to which exception is most generally taken is that which fixes the annual value of houses, whose letting value cannot be ascertained, at 5 per cent. of the estimated cost of building. To me it is a matter of great regret that a Bill, which was initiated for no other purpose than that of providing the amalgamated municipality with a better system of government, and which was drawn out under the auspices of such a proved friend of self-government as the distinguished Chairman of the Municipality, should have given rise to so much irritation and dread. I may and do consider much of the apprehension groundless, but I do not deny that it exists. I can even sympathise with the irritation which a large section of the public must feel, at finding that their opinions, which in the Municipality are largely dominant, are here both in Select Committee and in Council resisted by a compact phalanx of opposition consisting not solely of the official element by any means (for the line of clearage is not between official and non-official), but of one which is, at all events, non-

Hindu. Now no one can set more value than I do on legislating in harmony with public opinion, and I should always advocate making concessions where this can be done without sacrificing vital principle, and where it will have the effect of disarming opposition: But I think a little consideration will show that the Council are justified, notwithstanding this feeling of hostility, in maintaining their own views, and in declining to modify the main lines of the Bill in accordance with the wishes of those of whom I speak.

For, as I have already pointed out, this Bill has been threshed out twice in Select Committee—a Committee which latterly consisted of three-fourths of the Council. This Committee had before them not only the various memorials received from public associations and bodies. They had also the views of the opposition most ably enforced by their two principal representatives in this Council. But they had also the views of another and very important section of the community—those who represent the Commerce, the trades, and in a general way the European element of the community. They had also before them the views of the Health Society—a body that can make its voice heard elsewhere than in Calcutta. Now it is well known that if the representatives of the Hindu community thought the powers of control and of interference with individual liberty went too far, it is equally certain that the other section of which I speak thought the Bill does not go nearly far enough in providing for effective sanitation and for the interests of the minority. Both these opposing influences were brought to bear on the Committee. The Committee, as Sir Henry Harrison pointed out at an early stage of the debate, took up a line between the two sections, and though on the whole, no doubt, it leaned to the views of the latter section as more in accordance with the requirements of the times, they rejected what they considered the extreme demands of both parties, and what they presented to the Council was practically the irreducible minimum beyond which they were not likely to go in rediscussing the matter in Council I would wish, however, in considering these questions of control and sanitation together. to look at the matter from a somewhat broader point of view. Now it can scarcely be denied—in fact it is one of the main arguments of the opposition—that neither the habits nor the views of the Hindu community on the subject of sanitation are in touch with those accepted at the present day by public opinion in Europe, and it will be said "then why force on the Hindu community your Western ideas and practices for which

admittedly the former are not prepared?" Well, the reason is that the Government is responsible in this matter to a much wider public opinion than even that of the Hindu community in Calcutta. It must be remembered that Government in its dealings with the local municipality is not negotiating with an independent potentate, whether friendly or hostile. In the long run the Government is itself responsible for the administration of the Calcutta Municipality. It has delegated its powers to a certain extent to the local community on the just and wise principle that a local body can best deal with local affairs, but this principle has its limits. From this point of view the municipality is a part, a department so to speak, of the Government, and the Government as I have said is responsible for the way its affairs are managed, responsible in the first instance to the people themselves, but secondarily responsible to the much larger public in Europe, who may either be, or may fancy themselves to be, affected through the commerce of Calcutta by the sanitary condition of the city; and that public opinion, let me tell you, has in the Suez Canal quarantine regulations a very potent and effective method of making its voice heard. So potent that it may almost be said to hold the existence of your commerce and therefore of the prosperity of this city in its hands. I have put forward this argument first, as it is based on the utilitarian grounds which appeal to every body. But if some of these reasons did not exist, I should still say that it was the duty of Government, in spite of opposition, to keep in its hands the power of maintaining an effective control over the sanitation of this great city for the health of which it is responsible, and that in this matter it is the duty of Government to lead and not to follow the less instructed public opinion of the time and place. I am not one who would treat with ridicule or with anything but respect sincere prejudices even when in my opinion quite unfounded, but I have great faith in the faculty of adaptation to environment, and as Hindu feeling has successfully adapted itself to much more perilous changes, such as the abolition of suttee, travelling by rail, medical tuition, the Calcutta water-supply, about all of which the prophets of evil had many hard things to say, so I believe will it very readily reconcile itself to the removal to a hospital of a houseless wayfarer when stricken with an infectious disease, and to compelling a landlord to purify an infected chamber before letting it out to a fresh lodger. At the same time I feel sure that the powers with which the munici-

pality is armed in dealing with private property will be exercised with all leniency, and that Government in exercising its powers of control will not lose sight of the prevalent feeling on the subject.

Turning now to the new rating section, I am bound to say that the principle which underlies that section is manifestly so fair and so reasonable that as an abstract principle it cannot be gainsaid. It is manifestly unjust that if A and B live in houses of equal value they should be unequally taxed. A, whose house is a rented one, should not pay double what B does, merely because B's house is his own, or even his ancestral property. So far I suppose we are all agreed, but when we come to apply this principle and try to discover a reasonable method of ascertaining the real value of B's house, then the difficulties begin, and denunciation is apt to take the place of argument. I do not wish to add to the irritation prevalent on the subject, so I shall not notice the hard words and exaggerated language used concerning it. But I would point out that the argument founded on the danger of fraudulent and *benami* leases being multiplied comes with bad grace from those who are at the same time urging the more complete emancipation of the Municipality from Government control.

I think, too, there may be in the public mind, not perhaps in the minds of the few who lead, but of the many who are led, some real misapprehension about this matter. I was much astonished to hear the rate denounced by a gentleman for whom I have a sincere respect, as a 5 per cent. *cess* on the capital value of the house, and to learn that it was supposed by many that people living in their own houses would have actually to pay the sum of 5 per cent., instead of this being merely an assumed value for rating purposes. This very morning one of the Calcutta dailies published a letter in which the tax was denounced because impoverished tenants "would have to pay 5 per cent. on the present cost of the building." No doubt if such a mistake as this is general, it would account for a much more vehement expression of indignation than that which we have already met with. But even where there is no misunderstanding, I fear there is a good deal of vexation. With those who merely want to escape paying their fair share of the rates, I have no sympathy; but with the very numerous cases of impoverished descendants of good families who cling to the ancestral home, as a matter of sentiment almost as deep as religion, I have a very real sympathy. I trust the

saving clause which Sir Henry Harrison has introduced will be effective in protecting this class, and even if it should be found in practice to cover more cases than those on whose behalf it was invented, I should look on this as a lesser evil than leaving the latter altogether unprotected. I do not say that even with this safeguard the rating clause as it now stands is a satisfactory solution of the problem, but I do say that of all the methods of solving it laid before the Council, this seems to me the least unsatisfactory.

I will not detain you now by touching on other parts of the Bill. It is a matter of no small grief to me that the attitude which the Council has been bound to maintain should be one which to many of my personal friends and representatives of the Hindu community appears one of unyielding hostility. I am convinced that it is not so, and that we have all of us given the most attentive, and in some cases sympathetic, consideration to the views and arguments of the minority. But constituted as the Council is, and legislating as the Government must do in accordance with the views not of one class, but of the most enlightened general public opinion of the day, the result could not be otherwise. I have carefully considered the question whether by postponing the passing of the Bill I should in any way help to arrive at a better understanding. I have quite satisfied myself that nothing is to be gained by such a course. It is quite certain that the views held by three-fourths of the Council after the full and ample debate which the whole subject has undergone, both in Council and Committee, will not be changed, and I am equally hopeless of any change being effected in the views of the minority. To postpone the Bill will therefore only be to keep open an irritating sore without any prospect of arriving at a better understanding, and it is better that the arguments and appeals of those whom the minority represent should be at once addressed to higher authority with whom the question ultimately rests. '*Interest reipublicæ ut sit finis litium.*' The controversy is disposed of as far as this Council is concerned, and the sooner it is brought to the consideration of a higher tribunal, the better, and I will gladly facilitate this.

Before I sit down, I trust I may be permitted to bear testimony to the indomitable perseverance and the unfailing courtesy with which the losing side have fought their uphill battle. These qualities are not so invariable in some assemblies of which we read, that they should fail to receive honor where they

[*The President.*]

exist. And now I will only thank the Council collectively for their regular and steady attendance throughout an unusually prolonged session, and trust that the Bill, if passed, may be fruitful of good government, and undarkened by the train of evils which its opponents have prophesied for it.

The motion was then put to the vote and carried on the following division:—

Ayes 8.	*Noes* 3.
The Hon. H. Pratt.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Sir Alfred Croft.	The Hon. Dr. Mohendro Lal Sircar.
The Hon. Sir Henry Harrison.	The Hon. Baboo Kali Nath Mitter.
The Hon. T. T. Allen.	
The Hon. C. P. L. Macaulay.	
The Hon. H. J. Reynolds.	
The Hon. the Advocate-General.	
His Honour the President.	

The Bill was then passed.

The Council was adourned *sine die*.

CALCUTTA;
The 1st June 1888.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

E. D'S. & others—Reg. No. 799G—100—7-2-90.